

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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In the MATTER of the Petition of
BANKERS TRUST COMPANY, and HERMAN
MARKOWITZ, for Settlement of their Account
as Co-Executors of the Last Will and Testament of

EDMUND J MCCORMICK

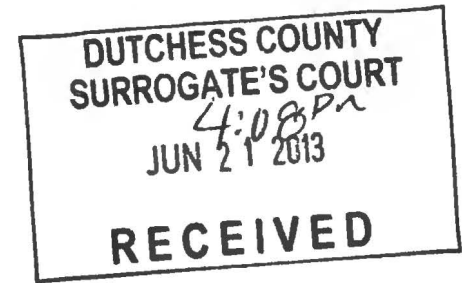
Deceased,

and for a direction pursuant to SCPA §2215 for repayment
of excess distributions to an interested party, and for recovery of
Estate assets from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a/ McCORMICK ORGANIZATION

-----X
In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will and Testament of

EDMUND J. McCORMICK

Deceased.



-----X
RECEIVED
SURROGATE'S COURT

JUN 20 2013

WESTCHESTER COUNTY

-----X
Suzanne McCormick, being duly sworn states as follows:

1. I make the following Affidavit based on the attached documentary evidence (Exhibits #1 to #118) that as been acquired by research, independent investigation along with the product of discovery and from my personal knowledge of the facts as a **Legal Executor of the Estate of my husband Edmund J. McCormick** pursuant to Permanent Letters Testamentary dated 1-25-89 and events recited herein.
2. My husband's Will dated 11-20-85 (*Exhibit #1* - relevant pages 10 pp) was drafted by the law firm of White & Case (Winthrop Rutherford, Jr.) and it nominated five (5) Co-Executives, myself (Suzanne McCormick), my stepson Edmund J. McCormick, Jr., Herman Markowitz (CPA and personal friend), Alfred S. Howes (business partner in nursing homes) and (the Professional Executor/Fiduciary) **Bankers Trust Company** (Emphasis Added).
3. Following my husband's death on 11-27-88, a meeting arranged by **Bankers Trust Company** ('BTCO') was held with all the nominated Executors along with the law firm of

White & Case (also at meeting) who became the Estate Attorney at that time. White & Case began in that capacity to perform the administrative actions of establishing the Estate and filing for Probate along with **Bankers Trust Company**. The Surrogate Court Procedure Act (hereinafter 'SCPA') §1414(1) requires that letters testamentary be issue to a person named in the Will who is eligible. Enclosed is a copy of §707 of the Surrogate's Court Procedure Act that is titled Eligibility to receive letters (*Exhibit #2 - 1 pp*) and Permanent Letters Testamentary and it should be noted that 'felons' (**Bankers Trust Company became a Federal Felon on 7-26-99 - See Exhibits #17 & #20**) or '*dishonest persons*' are among *those not qualified*. Further, it should be noted that in order to qualify, the executor must take, and file, an oath to "*well, faithfully and honestly discharge the duties of the office*" and account for all moneys or other property which may come into their hands. (Emphasis Added) How could **Bankers Trust Company** take and file, oath to "*well, faithfully and honestly discharge the duties of the office*" and account for all moneys or other property which may come into their hands when their names does not appear on the *Flawed Defective Permanent Letters Testamentary*? (*See Exhibits #4 & #5*) *More of the Fraud in my opinion!*

4. Attached as well is a copy of an article titled "Estate Administration in New York by Amy O'Hara, Esq. (*Exhibit #3 - 1 pp.*). Ms. O'Hara states in the article "*Even if you are a nominated Executor in the Last Will and Testament, you do not have any legal authority to act on behalf of the Estate until the Court issues these Letters to you.*" (Emphasis Added) In the McCormick Estate the nominated Executor **Bankers Trust Company** were never listed on the Court issued *Flawed Defective Permanent Letters Testamentary* dated 1-25-89.

5. We now know that *Flawed Defective Permanent Letters Testamentary* were issued by Westchester Surrogate Judge Evans Brewster on 1-25-89, to myself (Suzanne McCormick - see copy bearing serial # 214216 - Attached as *Exhibit #4 - 1 pp.*), Edmund J. McCormick, Jr., Herman Markowitz, Alfred S. Howes and **Bankers Trust Company of New York (BTCoNY)** (Emphasis Added). The *Flawed Defective Permanent Letters Testamentary* (dated 1-25-89) *were issued to four (4) of the nominated Executors in the Will (Exhibit #1) and not issued to the nominated Bankers Trust Company (BTCo).* The *Flaw and Defect in the Permanent Letter Testamentary dated 1-25-89* is that the nominated (in the Will - See *Exhibit #1*) entity **Bankers Trust Company** is not listed and instead the Fraudulent illegal nonexistent entity named **Bankers Trust Company of New York (not a legal entity till 9-7-99 - See Exhibit #14 - over 10 years after the date of the 'Letters' - 1-25-89) is listed pursuant to the request in the application filed by the law firm of White & Case (Executors are chosen directly by the testator).** The Uniform Probate Code provides that the administration of the Estate commences with the issuance of the Letters. Have made attempts at the Surrogate's Court to look at the book where the *Flawed Defective Permanent Letters Testamentary* (dated 1-25-89 - See *Exhibit #4*) came from to check if the copy in the record book was the same as mine and also to check on the 'Letters' to the other Legal Executives, all to no avail. The stories varied. They didn't have it and didn't know where it was, they said that the record book was lost and couldn't produce it. I guess if something is embarrassing, if gets lost, altered, destroyed or disappears and goes away which becomes part of the unbridled Pattern and Practices in this Estate as you will see! Therefore, I believe based on the documentary evidence that this was the beginning of the Fraud on the Court (and also the Estate of my

husband Edmund J. McCormick) by the Fraudulent Illegal Executors Bankers Trust Company and the law firm of White & Case.

6. Also enclosed is an **Exemplified Copy** (No 13052) of the **Flawed Defective Permanent Letters Testamentary** (dated 1-25-89) for the Estate of my husband, Edmund J. McCormick Certified by the Westchester Surrogate Judge Evans V. Brewster (**Exhibit #5** - 2 pp.) dated 4-10-89 that further memorializes the name of the Fraudulent Illegal nonexistent **Bankers Trust Company of New York** as being on this document (**The Flawed Defective Permanent Letters Testamentary dated 1-25-89**). I believe that **Bankers Trust Company** (Now Known As) **Deutsche Bank Trust Company Americas** (See **Exhibit #13**) has the copy of the original 'Letters' issued by the Court in its possession bearing a serial number that is numerically within a few numbers of mine (See **Exhibit #4** - Serial Number 214216) that mirrors the same memorialized Executors as appears on mine (See **Exhibit #4**) and the **Exemplified Copy Certified by Surrogate Judge Brewster** (See **Exhibit #5**). The critical question regarding the fatally **Flawed Defective Permanent Letters Testamentary** (dated 1-25-89) is - **if this was a mistake it would have been corrected in a formal Court procedure (and we know that did not happen)**. Instead as you will see it is clear that the **Official Court Records were clearly fraudulently illegally altered (or destroyed) with intent and the criminal coverup, suppression, fraud, deception and obstruction** was willfully, knowingly and intentionally underway since circa 1996, I believe based on this information and the documentary evidence that we uncovered, more than likely the perpetrators willfully, knowingly and intentionally thought that no one would ever figure this out and discover the fraudulent suppression and obstruction (of the fraudulent illegal nonexistent entity **Bankers Trust Company of New York as of 1-25-89** - See **Exhibits #14 & #15**) since the names were so similar, but **legally so different!** And it took many years of hard work to unearth this elemental **defective flaw (only a legal entity can be a Fiduciary) - no legal standing, authority or jurisdiction**, a Criminal Fraud and we continue finding things to this day and I find it interesting that not one of my attorneys discovered this salient material fact. We did it! They hid it in plain sight! And the mantra from the Bank and their Attorneys (Officers of the Court) is Deny, Deny and Deny some more - we have been told that is what criminals always do and after all **Bankers Trust Company** is a **Convicted Federal Felon (7-26-99 - Exhibits #17 & #20)**, so what would you expect! As to why the law firm of White & Case and **Bankers Trust Company** would engage in a Fraud and do this and how many other times this may have happened before or since, I have no answer, I don't know, that's not my job? I know it happened here in my husband's Estate and I have proven it beyond any reasonable doubt. It was hard enough for us to figure this out and no one wants to hear it! Professionals are in disbelief when this is presented to them, they have never heard of anything like this! I have presented this to all of my former attorneys and the one that responded said he would not answer because if he did he knew I would sue him!

7. The Surrogate's Court of Westchester County on 11-5-01 issued the attached (Sworn) Certificate of Appointment of Fiduciary (**Exhibit #6** - 1pp.) that bears the name of Surrogate Judge Anthony A. Scarpino, Jr. and John W. Kelly as the Chief Clerk of said Court. This 'Certificate' listed that the Permanent Letters Testamentary dated 1-25-89 (Without Limitations) were issued to - Suzanne V. McCormick, Edmund J. McCormick, Jr., Alfred S. Howes, Herman Markowitz and **Bankers Trust Company** for the Estate of my husband Edmund J. McCormick - there are no limitations and "...such Letters are unrevoked and in full

force as of this date 11-5-01.” (Emphasis Added) I believe that this document (*Exhibit #6*) is therefore, Fraudulent (on it’s face) as you can see by examining the *Exemplified Copy* of the *Flawed Defective Permanent Letters Testamentary* (dated 1-25-89) that is *Exhibit #5* as well as *Exhibit #4*, and now the Court is a party in my opinion with intent by willfully, knowingly and intentionally with what we now understand is this continuing ongoing fraud. We secured this document to deal with the IRS and we didn’t know or understand the ongoing underlying fraud at the time and we ‘Trusted the Courts!’ I believe that the documental evidence shows that the Official Court Records were illegally altered or destroyed (**Bankers Trust Company** does not appear on the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 - See *Exhibits #4 & #5*) as part of the obstruction, suppression, cover-up and whitewashing with intent to perpetrate the continuing Fraud to in part illegally deny me (and my husband’s Estate) the legal rights to due process and to defraud me and the Estate in my opinion. I believe that the Court is willfully and knowingly the ‘Enabler’ and ‘Facilitator’ here and therefore is ‘Aiding and Abetting’ this ongoing and continuing Criminal Fraud! The Patterns and Practices are continuing to take shape!

8. Again, the Surrogate’s Court of Westchester County on 4-20-04 issued the attached (Sworn) Certificate of Appointment of Fiduciary (*Exhibit #7* - 1pp.) that again bears the name of Surrogate Judge Anthony A. Scarpino, Jr. and John W. Kelly as the Chief Clerk of said Court. The ordeal and abuse to obtain this document was an opera! Briefly, my assistant paid for this ‘Certificate’ and the clerk looked at the file and went to John W. Kelly and Jody B. Keltz, Court Attorney-Referee (who was assigned to my husband’s Estate). Then following a 10 minute conference between themselves, they both approached my assistant who was waiting. Mr. Kelly and Ms. Keltz refused to give my assistant the Certificate which he had paid for until he stated that he needed it for Mr. Perez at the IRS (Mr. Perez at the time was the head of the Trust & Estate Section at the Manhattan Office) Upon hearing that Mr. Kelly directed the Clerk to give it to him. Ms. Keltz said don’t give it to him! Mr. Kelly said “he’s entitled, just like everyone else.” As you can see Mr. Kelly added the hand written addendum (at bottom) noting Alfred S. Howes had resigned on 1-23-92 thereby noting that the ‘*Letters were Amended*’ since *Alfred S. Howes had resigned, therefore, his name was removed from the ‘Letters dated 1-25-89 - This was the only ‘Amendment’ pursuant to a Court Order to the Flawed Defective Permanent Letters Testamentary dated 1-25-89 (See Exhibits #4 & #5).* Please note that once again, with the exception of Mr. Kelly’s handwritten addendum, it is a duplicate as to the factual contents contained in the sworn ‘Certificate’ dated 11-5-01, *Exhibit #6* (also issued by the Westchester Surrogate Court) in which the Professional Fiduciary is Fraudulently listed as **Bankers Trust Company**. Again, I believe that this document is, therefore, fraudulent based on the documental evidence contained in the prior paragraph above and the facts contained in the *Exemplified Copy* (See *Exhibit # 5* and also *Exhibit #4*). Further also, I believe that the documentary evidence shows that the Official Court Records were willfully, knowingly and intentionally illegally altered (or destroyed) as part of the obstruction, suppression, fraud, cover-up and whitewashing with intent to deny me (and my husband’s Estate) the legal rights in part to due process and perpetrating the continuing and on going Fraud in this matter. We knew at this point that the name (**Bankers Trust Company**) on the sworn Certificate (*Exhibit #6*) dated 11-5-01 was wrong and we wanted to see what we would get on another sworn Certificate in our diligent efforts to gather documentary evidence to gain an understanding of this fraud! The Surrogate’s Court (both Dutchess and Westchester)

at the time knew of this since the papers (See *Exhibit 95*) had been filed which raised the issue of the *Flawed Defective Permanent Letter Testamentary dated 1-25-89*, so that was more than likely the reason for the abusive and contentious reception! The repugnant abuse and prejudicial discrimination of the Court and their personnel had to be endured to obtain the documentary evidence. I believe that this is another part of the willfully, knowingly and intentionally continuing Patterns and Practices with intent of this overall ongoing Fraud that we have discovered!

9. Enclosed is a letter dated 10-19-10 to Ms. Brandi Goldenberg, (Attorney at Law) Director/Trust Officer of Deutsche Bank regarding my husband's Estate from me (*Exhibit # 8 - 1 pp.*). The sole purpose of the letter was to obtain the answer to the following question - "***Would you as the representative of the bank please provide me with proof that Bankers Trust Company/Deutsche Bank is a legal Executor of my husband, Edmund J. McCormick's Estate?***" Not receiving any acknowledgment or response of any nature to the 10-19-10 letter (*Exhibit #8*), in frustration of this continuing obstruction, I wrote again on 12-1-10 (*Exhibit # 9 - 1 pp.*) to Ms. Brandi Goldenberg memorializing the "Pattern and Practices" and requesting the name of the head of the Trust Department since there was no response to the question in my letter of 10-19-10 (*Exhibit #8*).

10. Ms. Brandi Goldenberg's (Deutsche Bank Private Bank - Private Wealth Management) letter dated 1-28-11 (*Exhibit #10 - 3 pp.*, Including a copy of the mailing envelope via Regular Mail) was in response to my letter (*Exhibit #8*) of 10-19-10 (my letter 12-1-10 was never responded to - *Exhibit #9*). The 1-28-11 letter allegedly answers my question regarding proof of **Bankers Trust Company/Deutsche Bank's (Deutsche Bank Trust Company Americas - See *Exhibit #13*)** legal standing in my husband's Estate. Attorney Goldenberg noted in this letter that I "...could have requested such a certificate directly" from the Surrogate's Court! Attached to this letter is a copy of a "Certificate of Appointment of Executors" (Certificate # 57311) dated 1-21-11 issued by the Surrogate's Court of Westchester County (that the Bank obtained) and bears the names of Surrogate Judge James D. Pagonos and Joseph M. Accetta as the Chief Clerk of said Court and states that the "Type of Letters Issued: AMENDED LETTERS TESTAMETARY" and that the "***Letters were Issued on: January 23, 1992,***" (Emphasis Added) the date of the resignation Alfred S. Howes. First, I've heard about '***Amended Letters Testamentary***' and I have no copy of any alleged Amended Letters Testamentary. ***Where is the Court Order on this?*** She asserts in her letter that the listed parties on this "Certificate" "...currently are the executors (sic) of the Estate of Edmund J. McCormick." Note that no reference is made whatsoever to the ***Flawed Defective Permanent Letter Testamentary issue by the Court on 1-25-89!*** (See *Exhibits #4 & #5 Exemplified Copy*) The parties listed are myself (Suzanne V. McCormick), Herman Markowitz, "... **Deutsche Bank Trust Co. Americas f/k/a Bankers Trust Co. of NY** ..." and Edmund J. McCormick, Jr. (Emphasis Added) It should further be noted that the Hon. James D. Pagonos is an Acting Surrogate Judge in this matter (See *Exhibit #49*). Here also, we see that the Amended Letters Testamentary were allegedly issued on "January 23, 1992 and ***it should be noted Bankers Trust Company of New York (see *Exhibit #14*) was not a legal entity until 9-7-99 over ten (10) years after the Surrogate's Court issued the Flawed Defective Permanent Letters Testamentary dated 1-25-89 and further this entity (Bankers Trust Company of New York) was never known as Deutsche Bank Trust Company***

Americas (See *Exhibit #13* - was formerly known *ONLY* as Bankers Trust Company - so exactly how do they appear on the Alleged 'Amended Letter Testamentary dated January 23, 1992?' - See *Exhibits #13, #14 & #15*). However, when you examine the Certificates issued by the Court on 11-5-01 (*Exhibit #6*) and on 4-20-04 (*Exhibit #7*) there is no reference to Amended Letters dated 1-23-92. Only on *Exhibit #7*, does Mr. Kelly in his handwritten note reference the fact that Alfred S. Howes resigned on 1-23-92, thereby Amending the *Flawed Defective Permanent Letter Testamentary* dated 1-25-89, and that is the only noted 'Amendment' based on a Court Order of the approval of Mr. Howes resignation.

As can be seen from *Exhibits #4 & #5* the Court was in my opinion saying on both 'Certificates (dated 11-5-01 - *Exhibit #6* and 4-20-04 - *Exhibit #7*) that Bankers Trust Company was listed on the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 in my opinion with intent to criminally alter the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 (See *Exhibits #4 & #5*) and, therefore, the 'Official Court Records' - Since as the documentary evidence shows they were not! The documented evidence now shows that since 'they' have some information of what we know (and can document), I believe that the Court et al., have in my opinion again with criminal intent altered the Official Court Records to bring in the name *Bankers Trust Company of New York (the Fraudulent Illegal Nonexistent Entity as of 1-25-89 - Did not legally exist as of this date - See Enclosure #14)* since it appears illegally on the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 (See *Exhibit #4 & #5*) and is currently know as *Deutsche Bank Trust Company New York (See Exhibit 14)*. *Deutsche Bank Trust Company Americas* was formerly known as *Bankers Trust Company* (See *Enclosure #13*) the entity that is nominated in the Will (*Exhibit #1*) but, is not listed on the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89. No 'Bank' was ever legally listed on the *Permanent Letters Testamentary for the Estate of Edmund J. McCormick*.

The Court has stated on this Certificate (*Exhibit #6*) dated 1-21-01 that *Bankers Trust Company (Deutsche Bank Trust Company Americas)* is an Executor and references the 'Original' *Flawed Defective Permanent Letter Testamentary* dated 1-25-89 (See *Exhibits #4 & #5*) that clearly state that the *Fraudulent illegal nonexistent entity Bankers Trust Company of New York* is an Executor (See *Exhibit #14*) an assertion that I believe based on the documentary evidence is clearly Fraudulent and a continuation of the ongoing Patterns and Practices of criminal Fraud in my opinion - See *Exhibits 'Banking Certificates #13 - for Bankers Trust Company and #14 - for Bankers Trust Company of New York*.

Also, you can see the latest slight of hand in the illegal shell game with the altering of the names of the alleged banking organizations as you will see with the Certified 'Banking Department' Records (See *Exhibit #13 & #14*, as well as the Bank's document *Exhibit #15*). Again, since I know this document is fraudulent it is a continuation in my opinion of the ongoing fact pattern that the Official Court Records were with intent willfully, knowingly and intentionally illegally and criminally altered or destroyed (I have been told by attorneys in federal practice that this is a felony) as part of the ongoing and continuing "Patterns and Practices" of 'Aiding and Abetting' the obstruction, suppression, fraud, cover-up and whitewashing with intent to deny me (and my husband's Estate) my rights and who is doing this - *In my opinion based on the documentary evidence - the Courts themselves - Surrogate Judges and their Clerks have willfully, knowingly and intentionally signed these knowingly Fraudulent Sworn instruments! This is not a Judicial Error and there is No Judicial Immunity (given by themselves) in my opinion! I have no reason to believe that these*

people all employees of the Court System didn't all knew what they were doing, since they have superior knowledge - More Fraud, Obstruction, Suppression, Coverup, Stonewalling and Perjury, all with intent as part of the ongoing and continuing Criminal Patterns and Practices in my opinion!

11. Attached are copies of letters dated 4-22-04, from the NYS Department of State, Division of Corporation with regard to the entities **Bankers Trust Company** (1 pp. - *Also See Exhibit #13*) and **Bankers Trust Company of New York** (1 pp. - *Also See Exhibit #14*). In both of the named entities it is stated that there in no record of either corporation being filed. They further state that **"Banking entities are filed with the NYS Department of Banking, not the Department of State."** I am including as well a copy of a letter also dated 4-22-04 (2 pp.) with regard to the filing a Certificate of Incorporation for the entity **BT New York Corporation (5-12-65)** that as the letter states changing its name on three (3) occasions - first to **Bankers Trust New York Corporation** on 9-15-67; then second to **Bankers Trust Corporation** on 4-23-98 and finally the third time to **Deutsche Bank Trust Corporation** on 4-15-02, note that none of these 'Corporations' are 'Banks' since they are not listed with the Banking Department. (*Exhibit #11* - Total of 4 pp.)

12. Attached is a copy of the relevant pages of a deed dated 3-18-96 (Recorded 4-10-96 in DB 4812-0111 to 0120 inclusive) in the land records of Camden County, New Jersey (*Exhibit #12* - 3 pp.). The Grantor is listed as "Between HERMAN MARKOWITZ, EDMUND J. McCORMICK, JR., and **BANKERS TRUST COMPANY (formerly Bankers Trust Company of New York)**, CO-EXECUTORS OF THE ESTATE OF EDMUND J. McCORMICK, DECEASED, whose address is c/o Bankers Trust Company, 280 Park Avenue, New York, New York 10017..." (Emphasis Added) Note that my name (Suzanne V. McCormick) as a legal Executor is absent from the recorded Estate document. When this sale was proposed, I as a Legal Executor asked Mr. William Wilkie, Managing Director and Administrative Head of the Trust Department of **Bankers Trust Company**, for all the documents and information regarding this matter. Mr. William Wilkie finally forwarded some documents and told me that they (the Bank) had the votes and didn't need or care what I did - - so the Bank did what they wanted and the sale went on without my legal presence as a bone fide Executor! This document was signed by Henry A. Zaricki, Vice President of **BANKERS TRUST COMPANY**, who I now know fraudulently represented themselves as "Co-Executive" of my husband's Estate. (Emphasis Added) **Bankers Trust Company** was never known as **Bankers Trust Company of New York** at any time as you can see by the three (3) following entries - See *Exhibits #13, #14 & #15*. It has been explained to us by independent real estate attorneys that the "Title Company" looked at the **Flawed Defective Permanent Letters Testamentary** dated 1-25-89 (See *Exhibits #4 & #5*) and saw the listed name **Bankers Trust Company of New York** (See *Exhibit #14*) and naturally questioned it since, it was not the name (**Bankers Trust Company**- See *Exhibit #13*) nominated in the Will (See *Exhibit #1*). I believe that the attorneys for the **Bankers Trust Company** and the Bank knowingly, willfully and intentionally with intent used this slight of hand ('Shell Game') to fraudulently alter the **Flawed Defective Permanent Letter Testamentary dated 1-25-89** (See *Exhibits #4 & #5*) to facilitate the sale as revealed in this publically recorded instrument. Who would ever know or figure this out, the names are similar but legally different) and it sounds the same and further who would ever question **Bankers Trust Company**, the law firms White & Case or Pillsbury Winthrop or even

the Surrogate's Court on this matter? The ongoing Fraudulent Criminal Patterns and Practices with intent were moving along under the radar in my opinion. The arrogance and hubris along with the Criminal Actions continue.

13. As a direct result of a FOIL request NYS Department of Financial Services ('Banking Department') forwarded a (Sworn) copy of the 'long form' dated 5-21-12 (*Exhibit # 13 - 5 pp.*) that states on page one "THAT, the Organization Certificate of **DEUTSCHE BANK TRUST COMPANY AMERICAS** was filed in the Office of the Superintendent of Financial Services on March 5, 1903 under the title of **BANKERS TRUST COMPANY**, and such corporation was authorized to commence business on March 24, 1903." It further states - "Certificate of Amendment of the Organization Certificate providing for a change of name to **DEUTSCHE BANK TRUST COMPANY AMERICAS** - filed March 14, 2002..." Regina A. Stone, Deputy Superintendent, Foreign and Wholesale Banks, Banking Division, New York State Department of Financial Services Certified this Document. Accordingly, from the inception of **BANKERS TRUST COMPANY** it was never known by any other name until March 14, 2002 when it's name was changed to **DEUTSCHE BANK TRUST COMPANY AMERICAS**. - (Also See *Exhibit #15*) I believe the scope of the Patterns and Practices with Criminal intent becomes clear!

14. Again, as a direct result of a FOIL request NYS Department of Financial Services forwarded a (Sworn) copy of the 'long form' dated June 4, 2012 (*Exhibit #14 - 1 pp.*) that states "THAT, the Organization Certificate of **DEUTSCHE BANK TRUST COMPANY NEW YORK** was filed in the Office of the Superintendent of Financial Services on April 10th, 1995 under the title of **DEUTSCHE BANK TRUST COMPANY**, and such corporation was authorized on May 5th, 1995..." It further states that the "Certificate of Amendment of the Organization Certificate providing for a change of name to **DEUTSCHE BANK TRUST COMPANY NEW YORK** - filed March 14, 2002..." Additionally, it states "Certificate of Amendment of the Organization Certificate providing for a change of name to **BANKERS TRUST COMPANY OF NEW YORK** - filed September 7th, 1999" RETINA A. STONE, Deputy Superintendent, Foreign and Wholesale Banks, Banking Division, New York State Department of Financial Services, Certified this document and "FURTHER CERTIFY THAT, **DEUTSCHE BANK TRUST COMPANY NEW YORK** converted from state charter to federal charter on January 17, 2006 and is no longer operating under the supervision of this Department." Therefore, **DEUTSCHE BANK TRUST COMPANY** (May 5th, 1995) changed it's name to **BANKERS TRUST COMPANY OF NEW YORK** (September 7th, 1999) and then in turn was changed to **DEUTSCHE BANK TRUST COMPANY NEW YORK** (March 14, 2002). At no time was the entity **BANKERS TRUST COMPANY OF NEW YORK** ever known at any time as **BANKERS TRUST COMPANY** (or the reverse) and further at no time was the entity **DEUTSCHE BANK TRUST COMPANY NEW YORK** ever known as **DEUTSCHE BANK TRUST COMPANY AMERICAS** (or the reverse). - (Also See *Exhibits #13 & #15*)

15. Deutsche Bank Private Banking sent a letter dated 5-1-02, addressed "Dear Client" to its clients, however, I never received one for some reason. The enclosed copy was provided sometime later by a friend who had received it (*Exhibit #15 - 1 pp.*). It lists the "Legal Entities" and the name changes - First, under the column titled "Previous Name" it lists the name **Bankers Trust Company** and the "New Name" **Deutsche Bank Trust Company**

Americas. The listing under “*Previous Name*” for *Bankers Trust Company of New York* and the “*New Name*” for it as *Deutsche Bank Trust Company New York*. Can this be more succinct? There is no ambiguity and it is clearly irrefutable that **Bankers Trust Company** was never known at any time as *Bankers Trust Company of New York* not only from this document but also from the governing Banking Certificate, *Exhibit #13*, as well as *Exhibit #14*. I believe this element is one facet of the continuing and on going fraudulent illegal ‘Shell Game’ - obstruction, suppression, fraud and cover up that the **Bankers Trust Company** and it’s Attorneys, as well as the Courts with intent have willingly, knowingly and intentionally perpetrated in my husband’s Estate delineated by the documentary evidence in the previous Exhibits (See *Exhibits #4, #5, #6, #7, #13, #14, #15 & #39*) and further it is part of the continuing ongoing Criminal Fraudulent Patterns and Practices with intent in my opinion.

16. Attached is a page from the SCPA §703 Letter evidence of authority, effect of appeal. (*Exhibit #16* - 1 pp.) That states in part the ‘...letters granted by the court are conclusive evidence of the authority of the persons to whom they are granted ...’ and it continues “A certificate of letters testamentary or of administration [it does not mention a Certificate of Appointment of Executors that Judge Pagonos executed 1-21-12 - See *Exhibit #10*] duly issued by the clerk of the court shall be sufficient evidence ...” Now, I know that I’m a broken record, but the salient facts are that *The Flawed Defective Permanent Letters Testamentary (dated 1-25-89) for the Estate of my husband Edmund J. McCormick do not list (the nominated in the Will - See Exhibit #1) Executor Bankers Trust Company! (See Exhibits #4 & #5 which is an Exemplified Copy of the Permanent Letters) The listed entity on these Letters - Bankers Trust Company of New York did not legally exist according to New York State Banking Department until over ten (10) years later (See Exhibit #14) so how could they legally be listed on the Letters as of 1-25-89? What is very troubling is the corruption and in my opinion the circle the wagons mentality of the attorneys and yes, Judges along with Court personnel in this matter due to the documented facts and evidence regarding what I believe is the egregious criminal altering of Official Court Records i.e., the Flawed Defective Permanent Letters Testamentary dated 1-25-89 - the ongoing Patterns and Practices of Fraud continues! The Surrogate Court in the McCormick Estate granted Flawed Defective Permanent Letters Testamentary dated 1-25-89 (See Exhibit #4 & #5) to a Fraudulent illegal nonexistent entity Bankers Trust Company of New York that in fact did not become a legal entity until 9-7-99 - See Exhibit #14 - Banking Department Certificate. Only a ‘Legal Entity’ can be listed on the Letters Testamentary.*

17. On 3-11-99, **Bankers Trust Company** pled guilty in the Southern District of New York Court to Criminal Felonies (USA v. Bankers Trust Company - 99-cr-00250) as memorialized on the enclosed Certified Copy (10-21-09) of the ‘Criminal Docket’ to Three (3) Federal Felonies. (*Exhibit #17* - 4 pp.) *Felons can’t be Fiduciaries!*

18. Attached is a copy of *Criminal Information* dated 3-11-99 - USA v. **Bankers Trust Company** (99CRIM0250) filed by US Attorney Mary Jo White in the Southern District of New York (*Exhibit 18* -14 pp.) It charge (pursuant to the Garand Jury) **Bankers Trust Company** with three (3) Counts of making ‘False Entries in Bank Books and Records’ in this document. Starting on page one (1) and continuing on page two (2) of this document it states and I quote “*At all times relevant to this Information, Client Processing Services,*

which was also sometimes know as *Global Assets or Global Institutional Services ('GPS')* was one of the organizational units within the defendant **BANKERS TRUST**, through which **BANKERS TRUST** provided processing, fiduciary and trust services to institutional and individual clients.” (Emphasis Added) The attorneys (including but not limited to Mr. Milonas and Mr. Keyko) for the convicted Federal Felons **Bankers Trust Company** have repeatedly on the record made ad hominem statements that the ‘*Trust Department*’ was not involved in the criminal actions. This document is very clear, the ‘*Trust Department*’ was defiantly part and parcel of the Federal Criminal Felonies, as well as **Bankers Trust Company** as a whole! No parsing is permitted here - Again, in my opinion more callus disregard of the true facts with the intent to willfully, knowingly and intentionally engage in the ongoing Fraudulent Patterns and Practices of obstruction and suppression since no one would ever dare question anything that either White & Case, Pillsbury Winthrop or the convicted Federal Felons **Bankers Trust Company (now know as Deutsche Bank Trust Company Americas - See Exhibits #13 & #15) who would ever say anything!** I believe the Patterns and Practices with the intent to willfully and knowingly engaging in the continuing ongoing Fraud, Cover-up, Suppression and Obstruction!

19. Attached is copy of a Letter Agreement with Exhibit (**Bankers Trust Company Allocation**) dated 3-11-99 (*Exhibit #19* - 10 pp.) from the U.S. Department of Justice, United States Attorney, Southern District of New York to Samuel W. Seymour, Esq. (Sullivan & Cromwell) and Carey R. Dunne, Esq. (Davis Polk & Wardwell) - “Re: United States V. **Bankers Trust Company**” - along with the Allocation (*Exhibit A*) that once again clearly states that the *Client Processing Services (“CPS”)* “... was an organizational unit of the Bank that provided processing, fiduciary and trust services to the clients and customers of the Bank.” (Emphasis Added) The mantra from the Attorneys for the convicted Federal Felons **Bankers Trust Company** has been that the ‘*Trust Department*’ of **Bankers Trust Company** was not involved and as revealed from the official documents it was most certainly involved! In my opinion more Patterns and Practices with the intent of willfully, knowingly and intentionally engaging in the continuing ongoing Criminal Fraud, Suppression and Obstruction!

20. Enclosed is a Certified Copy of the *Sentencing Transcript* dated 7-26-99 (*Exhibit #20* - 13 pp.), in Federal Court for the Southern District of NY - Case 99Cr.250 - USA v. **Bankers Trust Company** (Emphasis Added) before Judge John G. Koeltl.. On Page three (3) of this document - Lines 23 & 24 it states “THE COURT: 19.1 million substantially jeopardized the safety and soundness of Bankers Trust?” Continuing on Line 25 and then Page Four (4) - Lines 1 & 2 state “Ms OH: Your Honor, not just the impact of the offense itself but the consequent results of a guilty plea in this court.” It should be noted that **Deutsche Bank** purchased **Bankers Trust Company** on June 4, 1999, prior to the **Federal Felony convictions on 7-26-99**. Note - that Troland Link, General Counsel of Deutschebank North America was present. It is my understanding that at this point following the Federal Felony Convictions **Bankers Trust Company** could no longer act as a Fiduciary pursuant to Statute - Felons are prohibited from acting as Fiduciaries!

There is no record of the Felons **Bankers Trust Company** ever giving any notice to their “*Clients*.” I believe and the record will show that ‘they’ decided to keep the Federal Felony convictions a secret, suppressing it, so they could with intent willfully, knowingly,

intentionally and fraudulently retain their valuable Fiduciary Business, that we have been informed should have been either totally shut down or sold following the actual Federal Convictions on 7-26-99. In my opinion based on the documentary evidence this is all part of the continuing Patterns and Practices in this tawdry saga!

21. Shortly following the plea (3-11-99) to Federal Criminal Charges, the record shows that the attorneys for **Bankers Trust Company** approached the NYS Parole Board seeking to apply for a "Certificate of Relief From Disabilities" regarding the Federal Felonies that they had pled guilty to on 3-11-99 (See *Exhibit #17*) and they wanted this document *to be issued simultaneous with the sentencing/conviction*. Please be advised that the NYS Parole Board ultimately in response to a FOIL demand was directed to furnish me with "True Copies" of the complete file regarding the application of Convicted Federal Felon **Bankers Trust Company** pursuant to the transmittal letter dated 7-30-04 from Terrence X. Tracy, Counsel and that is the source of all the Parole Board documentary evidence. (*Exhibit #21*- 1 pp.)

22. In a letter dated 4-13-99, to Mr. James V. Murray (Parole Board) from Edward R. Hammock, Esq., (Former Chairman of the Parole Board who represented **Bankers Trust Company**) in which he states in part "...Release of information regarding this matter in advance of a determination of the request by the Board of Parole could damage the interests of **Bankers Trust** (Emphasis Added) and the hundreds of estates and trusts domiciled in New York State where it is anticipated that the Bank will serve as trustee and executor." (*Exhibit #22* - 2 pp.)

23. On 4-16 -99, James V. Murray, Director Executive Clemency Bureau of the Parole Board wrote to Edward R. Hammock, Esq. (Former Chairman of the Parole Board) and Samuel W. Seymour, Esq., of Sullivan & Cromwell (*Exhibit #23* - 1 pp.) to inform them that since their client has not been sentenced, "...your request is premature and therefore the investigation phase cannot proceed." Mr. Murray further states '...it is inappropriate for action to proceed at this point.'

24. Mr. Martin Cirincione of the Parole Board in a Confidential (Not to be Distributed) Memorandum to the File dated 5-18-99, regarding a telephone conversation with Ms. Alex Oh (US Attorney's Office) in which Mr. Cirincione "...informed her that this was a unique circumstance with the application being from a corporation and the *application being requested to be granted simultaneous to the sentence*." (Emphasis Added) (*Exhibit #24* - 1 pp.) We believe the reason for the *simultaneous issuance* was it had to be seamless being that a *Fiduciary can't be a Felon*. They had no cover since they knew they would be standing naked and had to close the door, putting up a sign saying CLOSED - out of business! And in fact the *documentary evidence shows that No Certificate was issued by the NYS Parole Board for over four (4) months (12-99 - See Exhibits #35 & #36) following the Federal Felony conviction on 7-26-99*. (See *Exhibits #17 & #20*)

25. Mr. Martin Cirincione of the Parole Board in a Memorandum to the File dated 7-19-99, regarding a telephone contact from Ed Hammock states in part "...that it would be a good idea to grant a Certificate of Relief from Civil Disabilities to **Bankers Trust** (Emphasis Added) because it would be the people who had their money in fiduciary

capacity with **Bankers Trust** (Emphasis Added) who would suffer the most.” (*Exhibit #25* - 1 pp.)

26. Mr. James V. Murray, Director, Executive Clemency Bureau of the Parole Board in a Memorandum dated 7-22-99, to Mr. Martin Cirincione regarding a telephone conversation he had had with Ms. Alex Oh of the US Attorney’s Office in part states that Ms. Oh “...volunteered that **Mr. Seymour had informed her that the Board of Parole had rejected the request for a Certificate of Relief.** I [James V. Murray] informed her that the matter was still under review and that we might have some questions concerning the case. At that point, she informed me that the matter was calendared for Monday, 7/26/99. Surprised, I asked about requests for adjournments. She said nothing was pending and **because it had been adjourned a number of times, she expected it to go forward.**” (Emphasis Added) (*Exhibit # 26* - 1 pp.)

27. On 8-13-99, Mr. Martin Cirincione of the Parole Board wrote Edward Hammock, Esq regarding the **Bankers Trust** application for a Certificate of Relief From Disabilities attaching a list of questions and information being sought by the Parole Board (*Exhibit # 27* - 2 pp.).

28. On 9-21-99, Samuel W. Seymour Esq., of Sullivan & Cromwell wrote Mr. Martin Cirincione of the Parole Board with attached list of responses to the questions contained in the letter (See *Exhibit #27*) dated 8-13-99 (*Exhibit #28* - Total of 5 pp.)

29. The Parole Board supplied the undated and typed Memorandum that lists the issues and the answers regarding the Federal Felons **Bankers Trust Company**. The law firm of Sullivan/Cromwell is listed as stating the there was “No involvement of trust/fiduciary functions.” Under the term “CONTRA (just based on app’s submission)” it states “Indict yes trust unit involved (p.2+ - Agreed allocution yes trust unit involved - Letter from NY State Regulator yes trust unit involved” This point is being brought out because the Bank’s Attorneys et al., have repeatedly stated with intent that the Trust Department was ‘*Not*’ involved. More on the Patterns and Practices issue in my opinion. (*Exhibit #29* - 1 pp.)

30. The Parole Board supplied the undated (it would seem from the list that this was before the Federal Felony Conviction) and typed Memorandum lists “Options For Bank?” - The first one on this list #1 is “**Advise each effected client on their upcoming inability to perform**” (Emphasis Added) (*Exhibit #30* - 1 pp.) **There is no proof that Bankers Trust Company ever advised anyone of their Federal Felony Convictions or of their ‘inability to perform’ - quite the contrary in my opinion they continued to willfully, knowingly and intentionally suppressed and obstruct the facts (See Wilkie’s letter Exhibit # 31)!**

31. Mr. William J. Wilkie, Managing Director and Administrative Head of the Trust Department of **Bankers Trust Company** (Bankers Trust Private Banking) sent a letter dated 11-15-99 to the clients of the Bank’s Trust Department (I never received one!). In this letter he states that “On Monday, July 26, 1999, a Federal court case involving **Bankers Trust Company** (Emphasis Added) came to a close, marking the conclusion of a sad chapter in the Bank’s history. This case had been exceptionally frustrating for us in the private banking and personal trust business lines. **Even though our businesses were not**

involved or implicated in the case in any way, there have been some unforeseen repercussions that we feel compelled to remedy swiftly and decisively." (Emphasis Added) Not once in this Wilkie's letter does he even mention the Federal Felony Convictions (of 7-26-99), instead he uses euphemisms to willfully and knowingly coverup, suppress and obstruct the material facts, thereby, denying the 'Clients' the truth. Attached to this letter is a "Notice of Petition" dated 10-29-99 in the Substitution of Fiduciary executed by Philip H. Schaeffer of the law firm of White & Case that also makes no reference to the Federal Felony Conviction of 7-26-99. The purpose of this document was that all the Fiduciary capacities designated in the Verified Petition (this was sealed) were to be transferred from the Convicted Federal Felon - **Bankers Trust Company (See Exhibit #13)** to the new Non-Felon especially created (9-7-99) for the event - **Bankers Trust Company of New York (See Exhibit #14)** - so that the 'Bank' could retain their valuable fiduciary business. The success and the biggest part of this fraud was that no one could be told the truth. Mr. Wilkie states that "... *our businesses were not involved or implicated in the case in anyway...*" brings his veracity into question since the record reveals the exact opposite (See **Exhibit #29**) The continuing "Patterns and Practices" say more than any words. (**Exhibits #31 - Total of 3 pp.**) I obtained this document (Letter and Petition) approximately 2 years after the date of the letter from someone we met and the addressee has been redacted at their request.

32. In another (unrelated) **Bankers Trust Company** matter, also in the Westchester County Surrogate Court in the Ralph P. Manny Matter, File No. 1319/1992 (A) & (B) attached to a Reply Affirmation filed 2-9-05 is a copy of a MEMORANDUM - dated 10-12-99 to Martin Cirincione from James V. Murray. The second paragraph states the following - "**Total amount 'inappropriately' taken was \$55.1 million. The plea deal covered \$19.1**" (Emphasis Added) - Enclosed also is the Certification dated 2-10-05 of this Memorandum filed on 2-9-05 by John W. Kelly the Chief Clerk of the Surrogate's Court (**Exhibit #32 - Total of 2 pp.**) Also, contained in the Reply Affirmation on Page 6 is a statement "...based on this new information and documentation, there is no doubt that **Bankers Trust Company** (Emphasis Added) and their attorneys engaged in bad faith by willfully and knowingly perpetrating a criminal fraud on a Federal Court and this Court [Westchester County Surrogate's Court]." (**Exhibit #33 - 1 pp.**) To our knowledge the Westchester Surrogate's Court has never followed up on this documentary evidence.

33. A "Verified Petition" dated 9-29-99 - Index No. 99/121823 was filed on 10-29-99 in the Supreme Court of NY in New York County "IN THE MATTER OF THE APPLICATION OF **BANKERS TRUST COMPANY OF NEW YORK (f.k.a. DEUTSCHE BANK TRUST COMPANY) and BANKERS TRUST COMPANY** (Emphasis Added) For substitution of fiduciary relationships pursuant to New York Banking Law §154." The distinction between the two (2) separate and distinct banking entity is clear and it's from the Bank's own law firm of White & Case (signed by Philip H. Schaefer Esq.) both in the caption and in the body of the Petition. On Page 17 of this document you will find a sworn affidavit dated 9-29-99, by Kenneth Tarr, as Chairman and Chief Executive of **Bankers Trust Company of New York (f.k.a. Deutsche Bank Trust Company dated 5-5-95 - with copy of Banking Certificate dated 5-5-95) also see Exhibit #14.** On Page 18 of this document you will find a sworn affidavit dated 9-28-99, by William J. Wilkie as a Managing Director of **Bankers Trust Company** - also see **Exhibit #13. (Exhibit #34 - 24**

pp.) Note that this document was missing from the Court file (no copies were available) and we obtained it several years later through someone who was at the Court hearing in December 1999!

34. By a letter dated 12-2-99 from James V. Murray of the Parole Board to Samuel W. Seymour, Esq., of Sullivan and Cromwell, a 'Certificate of Relief From Disabilities' (Hand dated 11-19-99 & 11-22-99 and marked 'Copy') for **Bankers Trust Company** is transmitted. It is our understanding that a 'Certificate' does not operate as a pardon, but will avoid the statutory ineligibility of a felon to serve as fiduciary, *it does not prohibit discretionary denial to withhold letters* as the Second Department found (Matter of Pullman, 89 A.D.2d 608 [2d Dept. 1982]) that the applicant could not obtain the letters because he was a *'dishonest' person within the meaning of SCPA 707(1)(e)*. Interestingly no one was ever given any notice of these proceedings, so therefore, no one could appear in opposition to file objections to the event! (*Exhibit #35* - Total of 3 pp.)

35. By a letter dated 12-14-99 again from James V. Murray of the Parole Board to Samuel W. Seymour, Esq., of Sullivan and Cromwell a *'Corrected Copy'* of the 'Certificate of Relief From Disabilities' for **Bankers Trust Company** is transmitted. (*Exhibit # 36* - Total of 3 pp.) Mr. Murray states in the second paragraph that the Certificate of Relief From Disabilities forwarded on 12-2-99 "...incorrectly stated a section of the Surrogate Court's Procedure Act. The enclosed Certificate correctly states the section in question." A careful examination of the first Certificate (See *Exhibit #35*) in comparison with the second Certificate reveals that the referenced section of the Surrogate Court's Procedure Act listed as *"S.C.P.A. Section 707(1)d"* is the same on both Certificates. *This 'Certificate' has limited scope as to it's coverage, it is not all encompassing as to the S.C.P.A.* The only change is that the hand dated "11-19-99 & 11-22-99" has been removed and there must have been a reason for this! So the moral here is you can become a Federal Felon and it's not a problem! The Federal Felony Convictions took place on 7-26-99 (See *Exhibits #17, 20 & #39*), and the first 'Certificate' was forwarded on 12-2-99, so for a period of over four (4) months **Bankers Trust Company** willfully and knowingly with intent illegally operated as a Fiduciary with all the attorneys and regulators knowing the situation and no one did anything that the law demanded. *How can New York State absolve Federal Criminal Felonies?* The on going Fraudulent Patterns and Practices continue in my opinion.

36. An "Order to Show Cause" was filed 3-17-03 in the Supreme Court in New York County under Index No. 03/104600 (Judge Harold Beeler) for the purpose of questioning the Banks, the Banking Dept. and the NYS Board of Parole - the face page of this action is enclosed (*Exhibit #37* - 1 pp.). When this was filed it ignited a fire storm and all manner of threats from the Bank and it's attorneys ensued. We agreed to withdraw this action and in return both **Bankers Trust Company** and *Bankers Trust Company of New York* executed the *Renunciation of Appointment by Nominated Co-Trustee* documents. (*Exhibit #38* - Total of 4 pp.) This document (prepared by the Bank's attorneys) begins with "The undersigned, **DEUTSCHE BANK TRUST COMPANY AMERICAS (formerly known as Bankers Trust Company)** (Emphasis Added)and **DEUTSCHE BANK TRUST COMPANY NEW YORK (formerly known as Bankers Trust Company of New York)** as *substitute fiduciary to Bankers Trust Company with respect to all future fiduciary*

relationships under an order of the Supreme Court of the State of New York, New York County dated December 17, 1999... do hereby renounce appointment and relinquish all right to letters of trusteeship under the Will of Edmund J. McCormick, admitted to probate by the Surrogate's Court of Westchester County, New York on January 25, 1989. (Emphasis Added) The significance of this document again shows the separate and distinct banking entities and what their true names were and are on the record. In a telephone conversation with Brandi Goldenberg, Esq., of Deutsche Bank when I mentioned this document (*Renunciation by the Banks*) *she stated that since a Judge had NOT approved it - it was not valid! So the Bank and their attorneys can agree to something and sign it and then say it doesn't mean anything! This of course goes to the continuing "Patterns and Practices" of the Convicted Federal Felon Bankers Trust Company and as I understand it the Felonies carry through to the name change of Deutsche Bank Trust Company Americas.* You can't change your name to get rid of a nasty Federal Felony! These matters are also documented in (*Exhibit #39*) the Decision of Judge Moskowitz (JSC), so a Judge did approve it!

37. An "Order to Show Cause" was filed 3-20-03 in the Supreme Court in New York County under Index No. 99/121823 (Judge Karla Moskowitz) for the purpose of ascertaining if the Estate of my husband Edmund J. McCormick had in fact been 'Substituted' (See *Exhibit #31*) pursuant to that document - the face page of this document is enclosed (*Exhibit #38* - 1 pp.). Again, the threats were oppressive and abusive, the Bank's attorneys repeatedly demanded punitive sanctions and they also attacked my attorneys. I will never forget that one of the Bank's attorneys Mr. Leo Milonas, stood up in a packed court room (before Judge Moskowitz) and willfully, knowingly and intentionally stated with intent that I was trying to put the Bank out of business and that I had made a speech attacking Judges. *Both of these assertions are untrue!* What purpose would it serve my cause to have the Bank go out of business or attack Judges for that matter? In all my public speaking I have never attacked any Judges, so the truth means nothing to Mr. Leo Milonas. Oddly, when I obtained the transcript Mr. Leo Milonas's fallacious outburst was not on the record transcript for some reason? Judge Moskowitz opened the sealed and impounded 'Lists' during the Court session of the Trusts and Estates that were substituted and disclosed that the Estate of my husband Edmund J. McCormick did not appear on the list that was transferred from the Convicted Federal Felon **Bankers Trust Company** to the new entity (as of 9-7-99) **Bankers Trust Company of New York**. At this point in time (2003) we did not know that the *Flawed Defective Permanent Letter Testamentary* dated 1-25-89, had the name **Bankers Trust Company of New York** and not **Bankers Trust Company as nominated in the Will**. (See *Exhibits #1, #4 & #5*) and no one was explaining these material facts to us! I believe that the 'Sealing' 'Impounding' or 'Suppressing' and 'Hiding' of Court Records is another obstructive trait of these people, part of the continuing and ongoing Patterns and Practices with Criminal intent.

38. Judge Karla Moskowitz in her '*Decision and Order*' dated 8-12-03 and filed 8-18-03 (*Exhibit #39* - 9 pp.) gives a good overall look at the issues along with the denial of all sanctions demanded by the Bank and their Attorneys. It also memorialized the details regarding the '*Renunciation of Appointment by Nominated Co-Trustee*' on the record. *The salient fact being that the Estate of my husband Edmund J. McCormick was not transferred from Bankers Trust Company.* - Note at this time we did not know the fact

that the nominated Professional Executor **Bankers Trust Company**, (that my husband and I carefully choose - See *Exhibits #4, #5 & #13*) was not listed on the Flawed Defective Permanent Letters Testamentary dated 1-25-89, issued by the Surrogate Court and instead **Bankers Trust Company of New York** (See *Exhibit #14*) was listed pursuant to the forms filed by the law firm of White & Case with the Surrogate's Court. These Attorneys (Mr. Milonas and Mr. Keyko) were especially vicious and ruthlessly in their attacks on me and my Attorneys as they are trying to do NOW again! In looking back I believe that they were terrified that we would discover the Criminal Fraud (involving the Flawed Defective Permanent Letters Testamentary) and that's why they did what they did, hence the threats, personal attacks, character assassination, oppression, abuse, pressure, obstruction and suppression! I believe that the intent was to chill and subject me to coercion to stop me from gaining information that they were willfully, knowingly and intentionally suppressing, obstructing and covering up. This is part of the continuing ongoing intent of Fraudulent Patterns and Practices in my opinion!

39. In 1995 when 'we' began the peaceful informational picketing and educational leafleting (hereinafter "picketing") of **Bankers Trust Company**, Mr. William J. Wilkie clandestinely engaged the predecessor of the law firm of Pillsbury Winthrop (Winthrop, Stimson, Putnam & Roberts) and as I understand tasked them with a full investigation of the Estate of my husband Edmund J. McCormick. Independent attorneys have informed us that the first thing you do is determine jurisdiction, legal standing and evidence of authority, this is law school 101! The *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 are unambiguous (See *Exhibits #4 & #5*). As anyone can clearly see they do not list the nominated Professional Executor **Bankers Trust Company**. Now, I have been told that if my name did not appear on the Permanent Letters Testamentary dated 1-25-89, I would have absolutely no legal standing or any authority. If this holds true for me it also holds true for **Bankers Trust Company** and how can you have a Fraudulent (non-existent illegal entity) named entity (*Bankers Trust Company of New York*) on the *Flawed Defective Permanent Letters Testamentary* (See *Exhibits #4 & #5*) dated 1-25-89 that is not a legal entity and did not become one for over 10 years (9-7-99 - See *Exhibits #14*) after the date of the Flawed Defective Permanent Letters Testamentary? No one is above the Law! I believe from the documentary evidence the willfully, knowingly and intentionally coverup, suppression and obstruction by **Bankers Trust Company** and their attorneys more that likely began at this point!

40. During late 1996 we spoke with a friend Ralph Martinelli, a newspaper publisher who had a chain of weekly newspapers here in Westchester. We asked for help and he spoke to the then Surrogate Judge Albert J. Emanuelli about my husband's Estate who said that there were two (2) Major things wrong, but he refused to give details! There were numerous telephone conversations that Mr. Martinelli taped. As I recall, I believe it was in late 1999, in this time frame and over time he gave some information on the first item regarding White & Case abandoning the Estate, enough so that we were able to uncover the details in time, but he refused to give Mr. Martinelli any information on the second item. We took the thread regarding the abandonment that we did not understand at the time and began the slow process of due diligence to obtain the material documental evidence. Several independent Trust & Estate attorneys (along with two retired Surrogate Judges) informally directed us and we ultimately discovered the *Petition For Payment of Executor's Individual Claims*

Pursuant to SCPA 1805' dated 2-7-89 and filed 3-7-89 (Exhibit #40 - 14 pp.) that the law firm of White & Case filed on behalf of their "Enduring Client" Bankers Trust Company (This term appeared on the White & Case website in describing their long term client relationship with **Bankers Trust Company** that was completely unknown to myself and my husband). This document prepared by White & Case is signed and sworn to by a **Bankers Trust Company Vice President** and states that the Court issued Letters Testamentary to petitioner (**Bankers Trust Company - See Exhibits #4, #5 & #13 - Bankers Trust Company the nominated Executor (Professional Fiduciary) is not on Flawed Defective Permanent Letters Testamentary dated 1-25-89**) and its co-Executors on January 25, 1989. (**Exhibit #4 & #5**) This is an egregious Fraudulent falsehood on the part of both White & Case and **Bankers Trust Company** (See **Exhibits #4 & #5**) another aspect of the willfully, knowingly and intentionally "Patterns and Practices" of fraudulent criminal intent. If I had known these material facts and understood them I would have strongly objected. Mr. Martinelli pressed Judge Emanuelli for the second item that was never revealed. Mr. Martinelli told Judge Emanuelli that he would come out in his papers against him for reelection (2000) and Judge Emanuelli offered him legal advertisements from the Court. That offer was declined! In early 2004, we accidentally discovered the fatally **Flawed Defective Permanent Letters Testamentary** dated 1-25-89 (**Exhibits #4 & #5**) and began the process of investigating the various aspects of this matter including filing Court papers on the Flawed Defective Permanent Letter Testamentary (dated 1-25-89), in Dutchess County Surrogate's Court (April/May 2004) that were apparently ignored! In my opinion this is more of the Patterns and Practices in this ongoing continuing Fraud with intent!

41. Westchester Surrogate Judge Evans V. Brewster's "**Order For Payment of Executor's Individual Claim**" dated 3-6-89 and filed on 3-7-89 (**Exhibit #41 - 5 pp.**) states in part "BANKERS TRUST COMPANY, a co-Executor of the Last Will and Testament of EDMUND J. McCORMICK, deceased ..." The Flawed Defective Permanent Letters Testamentary were issued by this same Court on 1-25-89 (See **Exhibits #4 & #5**). Now maybe the Court missed the illegal shell game, but you can bet that the perpetrators of this intended fraud knew full well that the name on the Flawed Defective Permanent Letters Testamentary (**Bankers Trust Company of New York - an entity that did not come into existence for more than 10 years - 9-7-99 - (See Exhibits #14)** and was not the nominated entity (**Bankers Trust Company**) listed in my husband's Will (See **Exhibit #1**). I have been advised by independent counsel and it is my understanding that once the law firm White & Case (the Estate Attorney at the time) with intent willfully, knowingly and intentionally filed the "**Petition For Payment of Executor's Individual Claims Pursuant To SCPA 1805" - White & Case with intent willfully, knowingly and intentionally abandoned the Estate of my husband** (notwithstanding the fact that the Petitioner **Bankers Trust Company** is not listed on the **Flawed Defective Permanent Letters Testamentary** dated 1-25-89. See **Exhibits #4 & #5**) That fact is irrelevant to the **matter of the abandonment of the Estate by the law firm of White & Case** and therefore, it is my understanding that my husband's **Estate had no legal representation beginning at that point and to the present**. I believe this is part of the Patterns and Practices of the continuing and ongoing Criminal Fraud.

42. In a meeting with a NYS Senator and his Counsel we discussed (and showed material evidence) about the issue of White & Case and their intentional abandonment with

fraudulent intent of the Estate after approximately two (2) months when they filed the "**Petition For Payment of Executor's Individual Claims Pursuant To SCPA 1805**" (**Exhibit # 40**). The Counsel asked the question regarding any payments to White & Case, did they get any money? We told her that in April, 1996, Mr William J. Wilkie Managing Director of **Bankers Trust Company** pushed for a payment to the law firm of White & Case 'for a partial payment of Estate legal fees.' At the time I strongly expressed my written opposition (*I was not aware of the abandonment by the law firm White & Case of the Estate at this point*) in a letter dated 4-15-96 (**Exhibit #42**) and thought that the Surrogate Judge should be involved in this matter. (See **Exhibit #42** - 1 pp) Mr. Wilkie wrote on 4-30-96, (**Exhibit #43** - 1 pp) telling me that the other Executors all agreed with the Bank and White & Case was paid \$250,000 of Estate funds as reflected in the alleged so-called Final Accounting. Mr. Wilkie further said he noted my comments in my letter of 4-15-96, however, since we believe equity and fairness support this payment they were proceeding with the approval of a majority of the Executors. He claimed that my decision did not provide them with any substantive reasons for further delay. He also stated "*...I wish to emphasize that should a Court ultimately decide White & Case was paid in excess of the Court's allowance, White & Case will return the excess with interest.*" (Emphasis Added) I have often wondered if Mr. Wilkie had knowledge that White & Case had abandon my husband's Estate in favor of his employer - I believe that he had knowledge. The Counsel made the statement to us that this was big trouble! It has been explained to us that **Bankers Trust Company** fraudulently facilitated the payment of Estate Funds with intent in collusion with **White & Case** for alleged legal fees owed by the Estate, when in fact they were willingly, knowingly, intentionally and fraudulently using *Estate Monies* with the intent to effectively pay the Bank's (**Bankers Trust Company's**) own legal fees (to defraud the Estate) since the law firm of White & Case had abandoned the Estate in early 1989, solely in favor of their '**Enduring Client**' **Bankers Trust Company**. How much in legal fees would the Estate have had incurred in the approximately two (2) months (Part of December, 1988, January 1989 and part of February 1989) until White & Case abandoned the Estate when the Court filing took place? Not anything like the figure of \$250,000! This is Criminal! I believe that they willfully, knowingly and intentionally engaged in actions to De-Fraud the Estate (and me) in the ongoing Patterns and Practices with intent and *again they knew what they were doing*, they had superior knowledge! Further, these are 'Officers of the Court!' The continuing and ongoing fraudulent Patterns and Practices with intent in my opinion!

43. A copy of a "Delegation by Individual Executor" dated 3-28-90 that was prepared and signed by "Jay R. Snyder" a Trust Officer at **Bankers Trust Company**, (**Exhibit #44** - 3 pp.) in which I my 'Delegated' powers as a Legal Executor of my husband' to **Bankers Trust Company** (who in this document clearly represented that they were an Executor of said Estate) at their request since I was leaving on a concert tour in the USSR. I believed that (at the time) **Bankers Trust Company** were Legal Executors of the Estate and they had all my Executorial Powers for an extended period of time. I revoked this 'Delegation' approximately 4 to 5 years after the date of its signing and they nevertheless continue to tell me I had participated during this time frame of the 'Delegation' and knew everything! We didn't find out about the *Flawed Defective Permanent Letter Testamentary* until early 2004 so we didn't know that **Bankers Trust Company** was not on the Letters as a Legal Executor! The continuing fraudulent Patterns and Practices with intent in my opinion!

44. During 'Discovery' the law firm of White & Case produced the "Delegation by Individual Executor" bearing Bates # WC 0002654 on the enclosed face page. (*Exhibit #45* - 1 pp.) I believe based on the production of this document it was Fraudulently altered with the intent to protect their 'Enduring Client' **Bankers Trust Company** (the convicted Federal Felons) by *removing the signature of the preparer a Trust Officer - Jay Snyder at the Bank.* (*See prior Exhibit #44 for true 'un-altered' copy*) They willfully knowingly and intentionally altered MY sworn (notarized) instrument with intent in furtherance of the ongoing criminal fraud and all this from Officers of the Court in my opinion! I believe that the evidence of the fraud, obstruction, suppression and corruption speaks more loudly than a thousand words! More Fraudulent 'Patterns and Practices' by Officers of the Court in my opinion!

45. Enclosed is a copy of a letter dated 6-23-04 from my attorney Jason Bogli to Judge Pagonos (Attn: Ken Bernstein & John Atherton) from the court records regarding various concerns that is filed stamped by the court on 6-28-04. (*Exhibit #46* - 2 pp.)

46. Enclosed is a copy of a letter dated 6-29-04 from Kenneth M. Bernstein, Esq. to Jason Bolgi (sic), Esq., responding to his (Bogli's) letter dated 6-23-04 (*See Exhibit #46*). One particular concern was the *maintaining of a computerized docket of this proceeding.* Kenneth Bernstein states that "You have been advised that this matter remains a Westchester County proceeding and any issues regarding docketing must be addressed to that Court." During our trips to Dutchess County Surrogate's Court, we always asked the clerks for a docket sheet and they said that *Westchester County had told them not to do any docket despite the fact that all the documents are allegedly filed in the Dutchess County Surrogate Court.* (*Exhibit #47* - 2 pp.) It should be noted for the record that the S.C.P.A. requires a "Docket Index" - See *Exhibit #48*. I believe that this is a part of the continuing Fraudulent Patterns and Practices with intent willfully, knowingly and intentionally that is ongoing! No Docket, No Index and No Record, No Problem!

47. Attached are copies of 'Relevant Pages' of the Surrogate's Court Procedure Act (S.C.P.A.) §2501 (Article 25 - Records and Recording) - titled 'Records to be kept by court; general requirements.' and §2502 "books to be kept by clerk." From a reasonable reading of both of these Sections of the S.C.P.A., it is succinct that *the Clerk is responsible to maintain an Index/Docket.* This is not an ambiguous duty it is very clear cut, IT MUST BE DONE, there is no option. So then again we must ask why wouldn't the Surrogate Courts (either Westchester or Dutchess Counties) maintain a 'Docket' in the Matter of the Estate of Edmund J. McCormick? There can only be one logical reason and that is FRAUD, so I believe that is all part of the continuing ongoing CRIMINAL FRAUD, SUPPRESSION and OBSTRUCTION that the Surrogate Courts are involved in this case and are willfully and knowingly with intent a part of in my opinion based on the documentary evidence! These people are all Officers of the Court, Does the Rule of Law mean anything? (*Exhibit #48* - 2 pp.)

48. Enclosed is a copy of a letter dated 7-1-04 from James Garfein, Chief Court Attorney of the 9th Judicial District to Jason Bogli, Esq., and copied to Surrogate James D. Pagonos (file stamped as received 7-2-04) with a copy of one (1) of the 'transfer orders' from Administrative Judge Francis A. Nicolai, that is dated 4-2-03. The letter gives a brief synopsis of the transfers of my husband's Estate. Also, enclosed is a copy of the letter with a posted note attached "KB,

For our file. I made extra copies - VDP" (*Exhibit # 49* - Total of 3 pp.) In an effort to find out what was going on in the Court people regularly visited the Surrogate Court in Dutchess County and would make copies of documents. I have been informed that Kenneth M. Bernstein, Principal Court Attorney kept the file on my husband's Estate in his personal office - But NO DOCKET INDEX SHEET!

49. In April /May 2001, I heard a radio interview of the new Surrogate Judge, Anthony Scarpino and as I recall he spoke about being in the FBI and then working for **Bankers Trust Company!** I didn't like that situation and believed that there was a conflict. I checked with a few independent attorneys and was told that the Judicial Canons prohibit the mere appearance of conflict or impropriety. I then spoke to my attorney at the time and told him that he must ask Judge Scarpino to disqualify himself due to his (Judge Scarpino) conflict involving **Bankers Trust Company**. In a letter my attorney informed me that he spoke to Judge Scarpino and *he would not step down!* So for almost two (2) years I endured his Court. Then a major New York newspaper printed a story on a Sunday about Estates & Trusts using a large picture of me with some of the signs we used when engaging in educational picketing and informational leafleting - one of the signs stated that "*Judge Scarpino Worked at Bankers Trust!*" Someone gave him a copy (we have wondered who?) and he called everyone into Court for a hearing (October, 2002 - I believe). He expressed his displeasure and then said something along the line that there was nothing he could do and would entertain recusal and disqualification Motions that my attorney filed. Finally, months later in February (2003) there was still no word so I went to a friend who is an elected NYS individual who thought the whole situation was highly irregular. She spoke to some people and within a few days Judge Scarpino recused himself. We then began the journey that is described in James Garfein's letter dated 7-1-04 (See *Exhibit #49*). Judge Scarpino in his Order *stated that he felt the conflict would not affect him* - I didn't agree with that statement and didn't feel comfortable and secure with the conflict! The second thing was that he stated that I had made a speech at a conference at a Manhattan hotel and in the speech attacked Judges - That information was **FALSE**, I never did any such thing - in fact, I spoke about growing up in Michigan, winning piano competitions and coming to New York to attend Julliard School of Music. So who was the Spy - the paid Informer (Anonymous) who reported falsely and then, so the question is - who told Judge Scarpino those falsehoods, these vicious lies and what did they have to gain by doing so? Dirty Tricks and the intent of the ongoing Fraudulent Patterns and Practices of suppression and obstruction continue in my opinion!

50. During 2001, it seems in reflection the Convicted Federal Felons **Bankers Trust Company** and their attorneys hatched another scheme in which they split off four (4) of my stepchildren from me. They had been secretly plying them with offers of Settlement and working with the Westchester Surrogate Court to achieve their goal - that was to divide and conquer and make me the last one standing! Fate entered my life once again, when I received in the mail (anonymously) a piece of paper with a website noted on it. Someone went to the website and was stunned to see what appeared to be an alleged 'Draft Copy' of a 'Stipulation and Order' (for my husband's Estate) on the Internet that was printed to study. Judge Scarpino apparently from what I understand has "Sealed the executed Stipulation" at the request of the Bank's Attorneys! **Bankers Trust Company, the Fraudulent Executors** that I now know have no legal standing, authority or jurisdiction whatsoever (Name Not on *Flawed Defective Permanents Letters Testamentary* dated 1-25-89 - See *Exhibits #4 & #5*) in my husband's Estate and their attorneys reacted, implying that I somehow had something to do with the

'Stipulation' on the website. There's just one big problem with that, since no one told me and I, as a Legal Executor, was not included in this secret process - exactly how did I obtain a copy to put up on the web when I obviously was being discriminated against and was not on the distribution list and had no knowledge! All manner of things were apparently going on behind my back and here I am, a Legal Executor of the Estate of my husband and no one tells me anything and this wasn't the first time from what I have learned! ***The Fraudulent Executor Bankers Trust Company*** and their Attorneys now want me to agree to this 'Sealed Stipulation' so that I am permitted to view it! That's what I call nerve! The alleged Draft Copy is not dated or executed so enclosed are the first two pages from the internet. (***Exhibit #50 - 2 pp.***) As can be seen the Federal Felon ***Bankers Trust Company*** is listed as a "co-executor" of my husband's Estate, another Fraudulent document and the willfully, knowingly and intentional continuation of the 'Patterns and Practices' of the Convicted Federal Felons and their Attorneys. It is my understanding that Surrogate Judge Scarpino has sealed the executed document and all these actions have taken place when ***Bankers Trust Company*** has no legal standing due to the fact that they are NOT listed on the Flawed Defective Permanent Letters Testamentary dated 1-25-89 (***Exhibit #4***) and see ***Exemplified Copy (Exhibit #5)***! I have come to the conclusion that the convicted Federal Felons ***Bankers Trust Company*** and their attorneys think that what ever they say is Gospel and no one will ever check anything since they think they are 'Omnipotent!' ***They are not Omnipotent, but I believe they are Arrogant with excess Hubris! To think of all the time involved in this Fraudulent litigation, all the legal filings, depositions, work and money and it's all one big Fraud, it's unbelievable and it's also Criminality perpetrated by Attorneys at Law and the Fraudulent Illegal Executor Bankers Trust Company a Convicted Federal Felon!*** Several retired members of the Judiciary and a few attorneys have said they have never seen anything like this Fiasco! They have all said that it should all be struck (voided and vacated) based on what we now know, ***in the ongoing criminal Fraud with intent!*** The continuing and ongoing Patterns and Practices that can't be denied in my opinion!

51. On 11-28-01, David G. Keyko, Esq., from the law firm of Pillsbury Winthrop wrote a letter to Robert M. DiBella, Esq., Principal Court Attorney (at the time and now a Judge) of the Westchester Surrogate Court. Mr. Keyko takes special note and states that "We note that the web site on which the enclosed materials appear is the very same web site that is cited in picketing material distributed by Suzanne McCormick. A copy of a leaflet distributed by Mrs. McCormick and her associates is also enclosed." "Finally, we believe that David Velderman could not have disclosed the settlement agreement to third parties. Federal Express confirmed that it never delivered the package to Mr. Velderman [David Velderman is my nephew]." I believe that Mr. Keyko disingenuously with intent willfully and knowingly implies that I somehow obtained a Copy of the Stipulation in a brazen effort to malign and defame me (poison the waters with the Court). I would look to the people who had control of the document in question and ponder if any of them engaged in some '***dirty tricks***' to disparage my character and poison the water with me and the Court. (***Exhibit # 51 -2 pp.***) Who would gain from this 'Dirty Trick?' This is the type of unethical behavior that is to be expected from Officers of the Court who have proven to be extremely ethically challenged due to repeatedly stating that their client ***Bankers Trust Company*** (a convicted Federal Felon) is a Co-Executor of the Estate of Edmund J. McCormick (and filing false instruments to that effect) when the name (***Bankers Trust Company***) does not appear of the ***Flawed Defective Permanent Letters Testamentary***

dated 1-25-89 (See *Exhibits #4 & #5*). More of the continuing and ongoing unbridled Patterns and Practices with what I believe is fraudulent intent in my opinion!

52. Attached is a copy of a 'Deutsche Bank Organizational Flow Chart' dated circa 2006 that was part of a filing prepared and filed in the Surrogate's Court of New York County by the law firm of White & Case who was representing both *Bankers Trust Company of New York (Deutsche Bank Trust Company New York - See Exhibit #14)* and *Bankers Trust Company (Deutsche Bank Trust Company Americas - See Exhibit #13)* in this common pool trust fund accounting. This document (*Exhibit #52 - 1 pp.*) succinctly illustrates the two (2) distinct entities for what they are, right from the 'Bank's' own law firm - White & Case! This document is from an unrelated matter to my husband's Estate. (See *Exhibit #13, #14 & #15*)

53 In early 1989 following my husband's death, I began receiving "U S Treasury" checks (payable to Edmund J & Suzanne McCormick, 231 Clinton Avenue, Dobbs Ferry, NY 10522) that were Internal Revenue Joint Tax Refunds for years prior to the date of death as the result of a 'Tax Appeal' of our "*Joint Income Tax Returns.*" (*Exhibit #53 - Total of 7 pp.*) I didn't know what to do with them and I spoke with the Trust Officer (Mike Philip) from **Bankers Trust Company** and the Estate Attorney Winthrop Rutherford, Jr. (White & Case). They both advised me that I had to turn them over immediately. Since my name was on them I inquired as to how much I was entitled to and they assured me that "I would get my share" - they would take care of everything and would also speak with the IRS. By receipt dated 3-10-89 I turned over five (5) US Treasury "*Joint Income Tax Refund*" checks (2 for the year 1982 - amounts \$1,924.55 & \$1,204.07, 1 for the year 1984 - amount \$52, 827.95, 1 for the year 1985 - amount \$72, 810.26 & 1 for the year 1986 - amount \$18,918.43) to Bank representative Bonnie Jackson (I didn't make any copies of these checks). I believe maybe in January 1990, I received yet another US Treasury check for an Internal Revenue Joint Tax Refund check for our "*Joint Income Tax Returns*" for the year 1986 in the amount of \$69,969.63. This time the check was made payable to - "*Edmund J. & Suzanne McCormick, Suzanne McCormick & Bankers Trust*" 231 Clinton Ave, Dobbs Ferry NY 10522. This check was also turned over to the Bank (somehow I didn't get a receipt for this one, but I did make a copy that is enclosed with the other documentation regarding this matter). *First*, we have diligently searched the alleged so-called 'Final Accounting' and have not discovered any entry for the \$69,969.63 amount - it does not appear! The other listed checks on the Bank receipt listed on the relevant pages from the alleged 'Final Accounting' under "Miscellaneous" with the entry as an example "*Internal Revenue Service - refund of individual income tax for 1985 plus interest to date of death.*" (Emphasis Added) *Second*, the five (5) checks (listed on receipt) are not for "*refund of individual income tax*" *they are for the "Joint Income Tax Returns" of my husband and myself!* *Third*, checking all the listed checks on the relevant pages the amounts are all lower than the check amounts listed on the signed Bank receipt. As an example the Joint Income Refund check for the year 1986 (Schedule B - Page 5) listed the amount as \$17, 409.00 with accrued interest thereon as \$1, 037.24 that totals \$18,446.24. The signed Bank receipt records the amount of \$18,918.43 for the year 1986 - *the difference is negative in the amount of \$472.19 and they are all the same way!* *The very same situation exists from the Joint Income Tax Refunds from the State of New York that also appear in the alleged so-called Accounting submitted by the Fraudulent Executor Bankers Trust Company (filing of False Instruments) - I never saw the New York State Tax Refund checks from prior to the date of death, somehow Bankers Trust*

Company and their Attorney managed to divert these Joint Income Tax Refunds Checks directly to them as list in the alleged Accounting - More Commingling and Conversion by Bankers Trust Company that would latter become a convicted Federal Felon! It is my understanding that this involves the elements of intent and ***willfully, knowingly and intentionally engaging in "Conversion and Co-mingling" along with Criminal Fraud and further reveals the "Patterns and Practices" of the Fraudulent Executors and convicted Federal Felons as some oversight agency has informed us.***

54. The alleged so-called "Final Accounting" submitted by White & Case (I believe they also prepared it for their "**Enduring Client**" **Bankers Trust Company**) to the Westchester Surrogate Judge interestingly bears my name in the caption, however I was never given the opportunity to be part of it and sign this document, but Mr. William J. Wilkie, Managing Director and Administrative Head of the Trust Department of **Bankers Trust Company** did sign it (See Selected Relevant Pages). Not only did he sign it, he signed this sworn Affidavit dated 11-8-96, as part of the alleged so-called "Final Accounting." "Mr. William J. Wilkie of **Bankers Trust Company** willfully and knowingly signed as an Executor of the Will of EDMUND J. McCORMICK, being duly sworn, deposes and says;" - NOTE: The record shows **Bankers Trust Company** (a nominated Executor in Will - See **Exhibit #1**) is not listed on the Flawed Defective Permanent Letters Testamentary - See **Exhibit #4 & #5** (dated 1-25-89) and therefore, **has no legal standing, authority or jurisdiction in my husband's Estate and never did.** More lies and more blatant Fraud (filing of False instruments) with intent along with Perjury (**Exhibit #54** - Total of 4pp.) and Mr. Wilkie continues the Patterns and Practices of Criminal Fraud and Perjury as you will see! Again, the willfully, knowingly and intentional Fraudulent Patterns and Practices continue and are ongoing I believe.

55. A sworn deposition of Mr. William J. Wilkie, Managing Director and Administrative Head of the Trust Department of **Bankers Trust Company** was conducted on 4-13-98 regarding my husband's Estate. Mr. Wilkie was asked several questions (Page 39 - Lines 17 - 25) regarding the existence of written manual or written instruction used by Trust Officers - **Trust Department Manual.** He stated under oath the answer was "No" - "**We have no manual now or, to my knowledge have we ever had one that fits into what you described.**" (Emphasis Added) Selected Relevant Pages Enclosed (**Exhibit #55** - 5 pp). **We had been told while picketing to ask about the 'Manual!'** This documentary evidence of Perjury, Obstruction and Suppression with intent follows the ongoing Patterns and Practices of the soon to be Federal Felon (7-26-99)!

56. A little over three (3) years later Mr. William J. Wilkie (as of this event, June, 2001, he stated he is now a Managing Director of **Bankers Trust Company of New York**) was once again deposed on 6-20-01 in the Matter of Ralph P. Manny (unrelated to the Estate of my husband Edmund J. McCormick) in the Surrogate's Court of Westchester County. Mr. Wilkie was asked the question (Page 36 - Lines 6-7) "In what areas do your trust administrative officers receive training? His answer (Page 36 - Lines 8-15) "From time to time, just general practices and policies on trust administration. **They're all directed to our trust procedural manual that outlines numerous procedures and steps.** We do a lot of training on taxes and estate planning and trust law and developments and things like Improvement Investor Act. Uniform Principal and Income Act, things of that nature." (Emphasis Added) A little over three (3) years since the McCormick Deposition on 4-13-98

and he effectively is asked the same question regarding the existence of a '*Trust Department Manual*.' His answer in the latter (6-20-01) is diametrical opposite to his response on 4-13-98 at the McCormick Deposition! It took more than two (2) years for the Bank and their Attorneys to produce the subject '*Trust Department Manual*' that bears the date on the first page of *April, 1997 (dated one year prior to his 4-13-98 McCormick Deposition)*. It is my understanding after speaking with knowledgeable attorneys, that this constitutes *Perjury with intent and Obstruction and Suppression*. And I have been told that once you commit *Perjury* everything you had contact with is flawed, no veracity, all defective! Mr. Wilkie with intent as a Managing Director of the Bank willingly, knowingly and intentionally signed all manner of documents including, but not limited to the alleged so-called Final Accounting of the McCormick Estate (to be sure other Estates and Trusts) along with the Bank's documents for the Substitution following the Federal Felony Conviction (7-26-99) et al. Mr. Wilkie abruptly resigned from the "*Bank*" after 43 years following this (6-20-01) deposition! Selected Relevant Pages of Deposition Attached (*Exhibit #56 - 5 pp*). The Patterns and Practice of Obstruction and Suppression with Criminal Intent continue in my opinion!

57. The Manual - titled *Manual Of Estate And Trust Memoranda - Fiduciary Services Division dated April, 1997* (Note that this is dated one (1) year prior to the McCormick Deposition of 4-13-98, in which Mr. Wilkie willfully, knowingly and intentionally denies any knowledge of this document with the intent to commit Fraud by engaging in *Perjury* by making the statement on the record that there was *NO MANUAL!*) bearing Bates Number "1972 RPM/EMP 01541 & 1976 RPM 4578" (*Exhibit #57 - 1 pp. Face Page only*)

58. By letter dated 8-31-12 addressed to Joseph M. Accetta, Esq., Chief Clerk Westchester County Surrogate's Court I requested "... a certified copy of the complete docket for the Estate of my husband, Edmund J. McCormick, that would show the 'entire' record of all the filing on the docket in this Estate Matter." This letter also included (all listed enclosures) documents regarding the Permanent Letters Testamentary for the McCormick Estate as well as a letter dated 6-29-04 from Kenneth M Bernstein, Principle Court Attorney of the Dutchess County Surrogate's Court and their non-role in maintaining any docket! Our quest for a copy of the docket index (Case Activity Report) sheet for my husband's Estate started well over twelve (12) years ago with a telephone call initiated by a reporter for Mr. Martinelli's newspapers to Ms. Jody B. Keltz. Ms. Keltz with intent willfully, knowingly and intentionally stated at the time that the Surrogate's Court did not maintain a docket despite the *legal (See Exhibit #48) requirement by Statute!* (*Exhibit #58 - Total of 7 pp.*) I believe that this is the continuing willfully, knowingly and intentionally with Fraudulent intent of Patterns and Practices of Obstruction, Suppression, et al.

59. In response to my letter dated 8-31-12 (*Exhibit #58* above) I received via regular mail a letter dated 9-14-12 from Johanna K. O'Brien, Deputy Chief Clerk (Westchester Co.) in which she states "*Please be advised, there is no 'docket' for this file.*" (Emphasis Added) She then with intent willfully, knowingly and intentionally goes on to create a smoke screen to obstruct the matter of the docket sheet. No docket sheet, No Problem - Just make it up as you go along! Anything can be done with intent to obstruct, suppress and cover-up the Fraudulent criminal acts! (*Exhibit #59 - 2 pp with Envelope*) I believe that the 'Patterns and Practices' of Obstruction, Suppression and Fraudulent activities continues unabated!

60. Attached is a 'Confidential' copy of a **Bankers Trust Company** 'Market Segmentation Analysis' dated 4-13-98, Document. (*Exhibit #60* - 15 pp.) The 'Market Segmentation Analysis' contains a valuable insight into the mind set of the 'Culture' of **Bankers Trust Company** and their machinations that include three (3) different categories. The second of the categories is the one that I believe that I am now being subjected to and it is the ignominious '*Milk, Exit and Ignore*' segments. **Bankers Trust Company** having now *Milked* and attempting to *Exit* now that we have discovered Fraud and Criminality in my husband's Estate - the next segment according to **Bankers Trust Company's** own words on paper is **Ignore!** No one can believe this document, but its very real! A friend of one of my stepchildren who worked at the **Bankers Trust Company** provided it to us.

61. Attached is a copy of a NY Times article dated 5-30-99, titled 'The Deep Slush at Bankers Trust' that gives an accurate account of the build up to the Federal Felony convictions on 7-26-99. I believe that this is the only article that truly states the facts and does not have the protective spin. It was the New York State Comptrollers Office that discovered criminal felons under great duress, suppression and obstruction - then the Bank claims they were the ones that found felonies - more of the Big Lie - the Spin Machine never stops! (*Exhibit #61* - 8 pp.) All part of the Patterns and Practices with intent in my opinion!

62. Attached is a copy of a NY Times article dated 6-5-99, titled 'Deutsche Bank Seals Bankers Trust Deal' which explains the purchase of Bankers Trust (Bankers Trust Corporation) for \$9 billion on 6-4-99. Deutsche 's chief executive, Dr. Rolf E. Breuer "... said Deutsche did not expect any further legal or financial problems stemming from Bankers Trust's recent guilty plea to Federal charges that it had misappropriated unclaimed customer funds. He said United States regulators had *immunized Deutsche from any further claims as part of its takeover of Bankers Trust.*" (Emphasis Added) This reveals the plea deal at \$19.1 million since it capped the liability of Deutsche Bank. The Parole Department records reveal that the true figure was allegedly \$55.1 million. (See *Exhibit #32* - 1pp.) - (*Exhibit #62* - 2 pp.)

63. Attached is a copy of a Daily News Editorial dated 8-26-02, titled 'Splitting heirs from their money' regarding the workings of the '... cozy operation called Surrogate Court...' Has anything changed from what this article relates? From my personal experiences I would say no! It's been my personal experience that the Surrogate's Court is not a user friendly environment for Widows or Beneficiaries in general! (*Exhibit #63* - 1 pp.)

64. Attached is a copy of a NY Post article dated 5-3-99, titled 'More protest BT merger' regarding the picketing of **Bankers Trust Company** by the 'McCormick's' and 'Jewish groups.' (*Exhibit # 64* - 1pp.)

65. Attached is a copy of a Smart Money Magazine article dated April 2001 titled 'Ten Things your Estate Planner Won't Tell You' that part of the 'McCormick Story' is related. I believe the most informative statement in the article is the "McCormick' situation isn't isolated. 'The banks and lawyers are having collusive relationships,' says Standish Smith, founder of Heirs, a nonprofit organization in Villanova, Pa...." (*Exhibit #65* - 3 pp.)

66. Attached is a copy of a Palm Beach Daily News article dated 1-13-05 titled 'Widow pickets executor in dispute over estate - Disagreement over name of firm in *letters of*

testamentary' sparks extended litigation.' was the result of the picketing of Deutsche Bank's Palm Beach (FL) office. (Emphasis Added) (*Exhibit #66* - 1 pp.)

67. Attached is a copy of The Palm Beach Post, Feature article dated 2-6-05 (Sunday) titled 'Widow sustains battle against bank (*Exhibit #67* - 3 pp.) - Bankers Trust misused her wealthy husband's estate, she says.' that details some of the issues involving my husband's Estate. I have done this because I know how hard both my husband and I worked to earn these monies and I don't want another widow to have to endure the oppressive and abusive terrorism and egregious fraud that I have been subjected to by the Bank, their 'White Shoe' Attorneys or the Courts! One of my attorneys told me that if I picket for 21 days the Bank would sit down and Settle, which is what I also wanted - So I picketed for more than 21 days and they tried to damage me some more by 'Retaliation.' I was told that the Bank told the paper that they couldn't print this article! The paper told the Bank that the paper was in publishing business and the Bank was in the Banking business and the paper would not tell the Bank how to run their business. The writer (an Attorney) told us that she thought that my story was the 'tip of an Iceberg' - it was much bigger than just me! Shortly following this article I became embroiled in a fee dispute with a former attorney in which one of my attorneys was told by a Westchester Supreme Court Judge to make me do something that he wanted and my attorney said No. The Judge first acknowledged that the 'Bank' was *behind* this suit and then told the attorney he would get him the next time he was back in Westchester (Attorney was from Manhattan). The attorney said that he hadn't been in Westchester in 15 years and wouldn't be back for another 15 years! This Judge was a *Supreme Court Judge involved in a fee dispute regarding my husband's Estate*. He added fees, \$150,000 interest attached that I was not liable for, *Plus - Only a Surrogate Judge decides the fees in Estate cases - no one else!* Yet, another violations of my rights, but more of the intent of Fraudulent 'Patterns and Practices' of the actors in my opinion!

68. Attached is a copy of a letter dated 11-2-96, to William J. Wilkie and Winthrop Rutherford, Jr., Esq., concerning two (2) questions and the fact that my letter of 9-26-96 was not answered. (*Exhibit #68* - 2 p.)

69. Attached is a copy of a Facsimile dated 11-19-96, to Frederick Semble, Esq., Milbank, Tweed, Hadley & McCloy from Lori Pearlman, Esq., of White & Case concerning the 'McCormick Account.' White & Case and **Bankers Trust Company** was concerned that the 'McCormick's' would "...bring a proceeding against the Executors." prior to their filing of their 'Petitions' that would be put "... in a defensive light." (*Exhibit #69* - 2 pp.)

70. Attached is a sworn Affidavit executed by Winthrop Rutherford, Jr., Esq., dated 1-12-99 (*Exhibit #70* - 4 pp.) in which with intent he willfully, knowingly and intentionally states in part that he is a member of the law firm of White & Case, "...attorneys for the estate of Edmund J. McCormick in the above-captioned proceedings." (Emphasis Added) As previously detailed in *Exhibits #40 & #41*, the record is clear that the law firm of White & Case willfully and knowingly abandoned my husband's Estate when they filed those documents in early 1989 (See *Exhibits #40 & #41*) on behalf of their Enduring Client **Bankers Trust Company and the intent was to commit Fraud against the Estate and me!** The Patterns and Practices along with the intent of the coverup, obstruction and suppression continues! I believe that Mr. Rutherford, Jr., an Attorney at Law and an Officer of the Court has willfully and knowingly with intent Perjured himself as well as added to the Criminal Fraud.

71. Attached are selected pages from sworn Affidavit of Legal Services executed by Winthrop Rutherford, Jr., Esq., dated 11-26-96, (*Exhibit #71* - 3 pp.) that states in part "...White & Case was retained by the Executors of the Estate of Edmund J. McCormick (the "Estate"), namely **Bankers Trust Company**, Suzanne McCormick, Edmund J. McCormick, Jr. ('Mr. McCormick, Jr. '), Herman Markowitz and Alfred S. Howes." (Emphasis Added) Note that it is stated with intent as a fact - willfully, knowingly and intentionally that **Bankers Trust Company** is a Legal Executor of the McCormick Estate, when in fact the nominated entity **Bankers Trust Company** does NOT APPEAR ON THE FLAWED DEFECTIVE PERMANENT LETTERS TESTAMENTARY (dated 1-25-89) WHATSOEVER. (See *Exhibits #4 & #5*) *The Law Firm of White and Case abandoned the Estate of Edmund J. McCormick when they filed Exhibits #40 & #41. As such they are not entitled to any money whatsoever!* They need to be charged with criminal fraud for the payment of \$250,000, that they received thank's to Mr. Wilkie's efforts (See *Exhibits #42 & #43*) - **Bankers Trust Company are not Executors** (See *Exhibits #4 & #5*) **and they will have to pay their own legal bills.** The Big Lie of Patterns and Practices continues. Again, I believe that Mr. Rutherford, Jr., an Attorney at Law and an Officer of the Court has willfully, knowingly and intentionally Perjured himself with the intent to deceive and defraud the Estate and myself! Continuing Patterns and Practices in my opinion!

72. Attached is a copy of a letter dated 12-27-89 (*Exhibit #72* - Bates No. BT 0003222 - 1 pp.) from Sarah B. Capel of White & Case to Mr. Michael G. Philip, VP **Bankers Trust Company** regarding notes of the Executors' meeting on 10-25-89 that Win Rutherford, Jr., Esq. has now approved. Ms. Capel states the "*Win feels that, due to the sensitive nature of the notes, they should not be circulated among any of the other parties, including the other Executors and, of course, Ed McCormick.*" (Emphasis Added) The naked truth of the control, secrets, obstruction, suppression and intentions of White & Case and their true allegiances who they were protecting - their **Client, Bankers Trust Company!** The Patterns and Practices continue to reveal themselves in my opinion!

73. Attached is a sworn Affidavit executed by E. Leo Milonas, Esq., dated 6-30-04, (*Exhibit #73* - Total of 14 pp.) in which he states that he is member of the law firm of Pillsbury Winthrop LLP, counsel for **Bankers Trust Company**, "... now known as Deutsche Bank Trust Company Americas ..." who he willfully and knowingly states is a Co-Executor (Pursuant to the Caption) of the Estate of Edmund J. McCormick. (See *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 - *Exhibits #4 & #5*)

A- Mr. Milonas willfully, knowingly and intentionally states (#3) that my "... assertion that the Estate is without proper legal representation is untrue. *The Estate has always been, and continues to be, represented by the law firm of White & Case LLP.* It is for this reason that our firm's filings on behalf of the Bank specifically note that we represent Bankers Trust only with respect to the objections to the Final Account. *On all matters concerning administration of the Estate, White & Case LLP remains counsel of record.*" (Emphasis Added) In light of the definitive abandonment by White & Case from legal representation of my husband's Estate in early 1989, (See *Exhibits #40 & #41*) Mr. Milonas is either ill-informed and ill-judged or willfully, knowingly and intentionally stating a falsehood with intent in the furtherance of the ongoing Criminal Fraud with the accompanying coverup, suppression and obstruction. The Fraudulent Patterns and Practices continue unabated! I believe that Mr. Milonas has with intent willfully and knowingly engaged in Perjury with this statement!

B - Mr. Milonas states (#4) that my suggestion that "... Deutsche Bank is acting without authority as co- executor of the Estate is also untrue." He then launches into a convoluted history (with Exhibits) of **Bankers Trust Company** now known as (as of 4-15-02) **Deutsche Bank Trust Company Americas**. (See *Exhibit #13*) He willfully and knowingly with intent fails to mention the suppression and obstructs the fact that although **Bankers Trust Company** was nominated as one of the five (5) Co-Executors (in the Will - *Exhibit #1*) they are *not named on the Flawed Defective Permanent Letters Testamentary dated 1-25-89, therefore they have no authority, legal standing or any jurisdiction.* (See *Exhibits #4 & #5*) I believe that Mr. Milonas knows the truth and has willfully, knowingly and intentionally stated another falsehood in the furtherance of the Criminal Fraud, coverup, suppression and obstruction in my husband's Estate. The Fraudulent Patterns and Practices continue unabated! Mr. Milonas has with intent willfully and knowingly engaged in Perjury in my opinion!

C - Mr. Milonas further states that my "... assertion that the Bank's felony conviction precludes it from fiduciary service is similarly without basis, as is her contention that the conviction implicated the trust and fiduciary services arm of Bankers Trust. The unfortunate events were fully disclosed to the public long ago." First, no one told me, I never received any notice whatsoever of the three (3) Federal Felony convictions, I had no knowledge! - certainly, **Bankers Trust Company** nor their Attorneys never gave me notice! There you go again Mr. Milonas - as he artfully attempts to foist the canard that the 'trust and fiduciary' units were not involved. And if that be the case, then why did the Bank and it's Attorneys desperately attempt to obtain the Certificate of Relief from Civil Disabilities and have it issued by the Parole Board simultaneously with the conviction in the Federal Court! There was a reason! The Parole Board in a document (See *Exhibit #29*) from their files states that the 'yes trust unit involved' pursuant to the 'Information' dated 3-11-99 - USA v. Bankers Trust Company - 99CRIM 0250 (*Exhibit #18* - 14 pp.) and a 'Letter Agreement/Allocation' dated 3-11-99 (*Exhibit #19* - 10 pp.) of the 'Information' (*Exhibit #19*) it states that "...the defendant BANKERS TRUST, through which BANKERS TRUST provided processing, *fiduciary and trust service* to institutional and individual clients." (Emphasis Added) Likewise on the very first page of the Bankers Trust Company Allocation (See *Exhibit #72* ????) it states "CPS was an organizational unit of the Bank that provided processing, *fiduciary and trust services* to the clients and customers of the Bank." (Emphasis Added) There are Lies and then there are Damn Lies! I believe that Mr. Milonas falls in the latter category and this is from an Attorney and Officer of the Court who I have been told was not only a Judge (in 1st Dept.) but, also the Chief Administrative Judge for the State of New York. I will not go further in Mr. Milonas's sworn Affidavit since I believe that his over zealous representation of his client has willfully and knowingly pushed him sadly over the ethical great divide into Lies and Perjury in my opinion. I believe that the unbridled Patterns and Practices lead to deeper Fraud. Again, I believe that Mr. Milonas has with intent repeatedly Perjured himself. He attempts to parse this and obstruct and suppress the federal conviction - the truth be told the whole bank was guilty and this is why the Federal case was *USA v. Bankers Trust Company* (See *Exhibits #17, #18, #19 & #20*)! Note that a few months following this sworn affidavit of Mr. Milonas we discovered the *Fraudulent Flawed Defective Permanent Letters Testamentary* (See *Exhibits #4 & #5*)

74. Attached are copies of selected pages of a Sworn Affidavit of David G. Keyko dated 4-21-03 (*Exhibit #74* - 3 pp.) in which Mr. Keyko states that he is a member of "...the law firm of Pillsbury Winthrop LLP, counsel for **Bankers Trust Company**, (See *Exhibit #13*) now known as **Deutsche Bank Trust Company Americas** ("BTCo") and *Bankers Trust Company of New*

York, (See *Exhibit #14*) now known as *Deutsche Bank Trust Company New York* (“*Trust Co.*”) ...” (Emphasis Added) Mr. Keyko “...make this affidavit in opposition to the motion of Suzanne McCormick for (ii) unsealing certain records that were impounded by order of this Court; and (iii) clarifying whether the Court’s orders substituting *Trust Co.* for *BTCo* affect the Estate of Edmund J. McCormick.” So Mr. Keyko attempted to obstruct me from gaining the knowledge and the Court’s assurance as to whether my husband’s Estate was transferred to the new entity as of 9-7-99 (See *Exhibit #14*) *Bankers Trust Company of New York*. Judge Moskowitz’s Decision and Order dated 8-12-03 (See *Exhibit #39*) in which she states that the Estate was not transferred to the so-called ‘Substitute Bank’ named *Bankers Trust Company of New York*. So according to the Court’s records the McCormick Estate is still with **Bankers Trust Company** - At this time in 2003, we did not know or understand the material fact that the nominated Professional Executor/Fiduciary (in the Will) **Bankers Trust Company** (See *Exhibit #1*) is not listed on the critical Flawed Defective Permanent Letters Testamentary dated 1-25-89 (See *Exhibits #4 & #5*) - instead the Fraudulent Illegal entity *Bankers Trust Company of New York* is listed (1-25-89) that did not become a legal entity until over ten (10) years later on 9-7-99 (See *Exhibit #14*). So Mr. Keyko understands the matrix of the two separate and distinct banking entities (and when they came into being) without question and his efforts to confuse or interpose the similar names as part of a Shell Game particularly with regard to the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 is, I believe, meant to continue with intent this Fraud and further obstruct and suppress Justice! Therefore, if Mr. Keyko knows and understands these facts (as stated in his papers) he knew that the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 are flawed/defective and his client **Bankers Trust Company** has no legal standing, authority, there is no jurisdiction! It should not be forgotten that Mr. Keyko/Mr. Milonas and their firm were in charge of a full investigation of the McCormick Estate, so they knew the facts. More Patterns and Practices with the slight of hand, obstruction, suppression and fraudulent criminal intent in my opinion!

75. Attached is a copy of the Affirmation of E. Leo Milonas in Opposition to Suzanne V. McCormick’s Application to Disqualify or Recuse Surrogate Scarpino; To Remove Bankers Trust as an Executor, and for an Extension of Discovery Deadline to January 31, 2003 dated 11-13-02 (*Exhibit #75* - 4 pp.). Mr. Milonas states that a member of the law firm of Pillsbury Winthrop LLP, counsel for **Bankers Trust Company** and now known as **Deutsche Bank Trust Company Americas** and then further states that **Bankers Trust Company** and Herman Markowitz’s “... Final Account of their proceedings as co-executors of the Estate of Edmund J. McCormick....” He made “... this affidavit in opposition to Suzanne McCormick’s Application To Disqualify Or Recuse Surrogate Scarpino, To Remove Banker Trust As An Executor...” Mr. Milonas once again engages in the fraudulent fantasies that his client **Bankers Trust Company** is an Executor of my husband’s Estate with the intent I believe to willfully and knowingly engage in the ongoing continuing criminal fraud since the record shows the nominated Executor **Bankers Trust Company** is NOT LISTED ON THE FLAWED DEFECTIVE PERMANENT LETTER TESTAMENTARY (See *Exhibits #4 & #5*). More of the Pattens and Practice of Perjury!

Mr. Milonas is determined to further the fantasies with his rendition of his participation in the alleged negotiation of the ‘Clandestine’ Stipulation (See *Exhibit #50*). Mr. Robert DiBella, Principal Court Attorney directly conducted the discussions. My Attorneys along with myself and my assistant spoke in detail with Mr. DiBella in Judge Scarpino’s Office (the Judge was at the beach with his daughter) and he expressed his option that this Estate could be worth a lot of money! We all expressed interest in speaking with Mr. Milonas or Mr. Keyko. (Mr. Geis

McCormick Jr's attorney, Mr. Milonas and Mr. Keyko were sequestered in the 'lunch room' while all the other parties were in the 'Library' waiting. Contrary to Mr. Milonas's assertion we were told by my attorneys that Mr. Milonas and Mr. Keyko refused to speak to us and only wanted to speak with the others! As a Legal Executor I was never given Notice of these matters and it all came as a surprise to me when we received the website information and saw a alleged draft copy (Undated and Unsigned) of a Stipulation and Order (See *Exhibit #50*). We have repeatedly been informed that Mr. Kekyo et al., didn't want to talk with me or my assistant, that's their mantra and the same holds true for White & Case! I sent someone to Frankfurt Germany (Headquarters Deutsche Bank) on two (2) occasions (at great expense) in 'good faith' with a 'Settlement' Proposal for 'Discussion' (See *Exhibit #88*) Document, the result was to be dismissed by Mr. Keyko! However, if my memory serves me correctly, I believe that Mr. Keyko used this 'Settlement' Document during depositions! Yet another violation of attorney ethics by Mr. Keyko. Mr. Milonas's veracity has already been repeatedly challenged (as is Mr. Keyko's) by his sworn assertions that his client (a Convicted Federal Felon and nominated Executor) **Bankers Trust Company** (name not on the Flawed Defective Permanent Letters Testamentary dated 1-25-89) is a Legal Executor of the Estate of Edmund J. McCormick when the documentary evidence doesn't exist to confirm this! (See *Exhibits #1, #4, #5, 13, #14 & #15*)

At the conclusion of his 'Affirmation' dated 11-13-02, (that he does "...hereby affirm under the penalties of perjury that:") states "...it is respectfully requested that the Court deny Suzanne McCormick's Application To Disqualify or Recuse Surrogate Scarpino, to Remove Bankers Trust As An Executor,..." - Mr. Milonas as a former Judge found nothing wrong with the fact that Judge Scarpino had worked at Bankers Trust Company, nothing ethically challenging whatsoever. (Judge Scarpino recused himself in early 2003). As to the issue of to "**Remove Bankers Trust Company As An Executor**" I suppose in a way the issue of the 'Removal of **Bankers Trust Company** as an Executor' is 'Moot' since they do not appear on the *Flawed Defective Permanent Letter Testamentary* (See *Exhibits #4 & #5*) dated 1-25-89 (so therefore, they never were Legal Executors of my husband's Estate even though they were nominated) even if **Bankers Trust Company** (a Convicted Federal Felon) and their ethically challenged Attorneys refuse to acknowledge the truth and continue the Perjury, cover up, obstruction and suppression! (See *Exhibit #4 & #5*) Not to mention the fact that the *Fraudulent Executor and Convicted Federal Felon Bankers Trust Company continues to hold a considerable amount of Estate funds without authority as part of the ongoing and continuing Patterns and Practices with Fraudulent Intent in my opinion!* But, nevertheless no decision on my 'Papers' to Remove Bankers Trust Company as an Executor was ever given to my knowledge - it was just ignored like it didn't exist! It must be nice to have friends in high places! I believe that they Willfully and knowingly with intent on an ongoing basis to engage in the continuing Patterns and Practices to fraudulently and criminally violate the rights of the Estate and myself, the end being to Defraud the Estate and Enrich themselves.

76. Attached is the face page of a Notice of Motion dated circa 12-16-98 (*Exhibit #76 - 1 pp.*) on which David G. Keyko states that "...Co-Executor **Bankers Trust Company** ("**Bankers Trust**") will move this Court..." - here again the criminal intent the Patterns and Practices were proceeding and we were not aware of what was going on! Mr. Keyko had to know that **Bankers Trust Company** was not named on the Flawed Defective Permanent Letters Testamentary dated 1-25-89, and therefore never had any legal standing, authority or jurisdiction, but they operated under the premise and intent that as long as no one else figured that a fraudulent non-existent entity was listed on the *Flawed Defective Permanent Letters Testamentary* (dated 1-25-89) they

could boldly protect their client the convicted Federal Felon **Bankers Trust Company now known as Deutsche Bank Trust Company Americas**. (See *Exhibits #4, #5, #13, #14 & #15*) The ongoing criminal intent of their Patterns and Practices continuing to obstruct and violate the rights of the Estate and myself in my opinion!

77. Attached are selected pages of a sworn Affidavit dated 12-1-98 of David G. Keyko (*Exhibit #77 - 3 pp.*) a partner in the law firm of Winthrop, Stimson, Purtnam & Roberts, and is the counsel for **Bankers Trust Company** (a Convicted Federal Felon) who he states is a Co-Executor of the Estate of my husband Edmund J. McCormick. As has been previously stated **Bankers Trust Company** was nominated in my husband's Will (See *Exhibit #1*), however, they are not listed on the Flawed Defective Permanent Letters Testamentary dated 1-25-89 (See *Exhibit #4 & #5*). I believe that Mr. Keyko is fully aware of the facts regarding this matter and chooses knowingly, willfully and intentionally to engage in disingenuous ethical acts that result in Perjury, Obstruction, Suppression and Criminal Fraud. The record is replete with evidence of Mr. Keyko's statements regarding **Bankers Trust Company** (his client a convicted Federal Felon) being an Executor of the Estate. I believe that Mr Keyko willfully and knowingly with intent follows the path of Criminal Fraud with his Patterns and Practices.

I recently learned that Mr. Keyko is or was on the 1st Department Disciplinary Panel (DDC) that reviews and rules on complaints filed against attorneys or law firms, *something I didn't know*. Over time three (3) complaints have been filed with this entity starting in circa 1998/99. Mr. Alan Freiberg, informed me in a letter that the DDC only had a record of one complaint (that I had filed) and had no record of the other two (2) complaints. One of the two (2) complaints I have proof that it was received. The other missing one was more extensive involving law firms and named attorneys including but not limited to Mr. Keyko. For some reason the DDC never acknowledged receipt despite followup telephone calls. I have no record from the DDC on that one! Did somebody do a favor and lose it to protect their 'Brethren?' I have read about the corruption at the DDC and know that there was a supervising attorney who was a whistle-blower concerning the Patterns and Practices, coverups, whitewashing, suppression and obstruction of complaints and protection of certain attorneys and law firms by the DDC. I understand that there is now a second whistle-blower (attorney) from the same office that is also alleging similar activities!

Very recently I received information of an extremely disturbing Federal case in which an individual who was allegedly working for the 1st Dept DDC engaged in widespread illegal wiretapping (utilized access and devices of the lawful operations of the Joint Terrorism Task Force - 'JTTF' - in furtherance of so-called 'Black Bag Jobs') of people (over an extended period of time) who filed complaints, attorneys and Judges (three Judges names have surfaced) all of which was and is illegal. The purpose of the activity was allegedly to either protect someone or destroy them! It is my understanding that the case is under seal at this time in the Eastern District New York Federal Court. I have often wondered why my well documented comprehensive complaints never went anywhere! So when you file a complaint with the DDC you apparently become the target of illegal wiretapping conducted for the benefit of the DDC or their friends! Now I have a better understanding and have to ponder if I believe Mr. Keyko or his friends may have had any part in Obstructing or Suppressing my complaints. Is the Fox in charge of the 'Hen house' and dirty tricksters have law licenses? I believe that this is another avenue to go down again, Patterns and Practices!

78. Attached are the first two (2) pages from an 'Order to Show Cause' dated 4-1-03, filed (*Exhibit #78* - 2 pp.) in the Courthouse of the Surrogate's Court of Rockland County, NY before Hon. Alfred J. Weiner, Acting Surrogate of Westchester County. Again, these filed papers by **Bankers Trust Company** are fraudulent due to the fact that their name does not appear on the Flawed Defective Permanent Letter Testamentary dated 1-25-89, (See *Exhibits # 4 & #5*) so they never had any legal standing, authority or jurisdiction which it is my understanding is the salient legal requirement to engage in any legal action in the Courts - More vexatious litigation and the filing of false instruments! More Patterns and Practices of the Criminal Fraud. Also, it should be noted with this particular document after Judge Weiner signed it, he then recused himself sending the Estate back to the Administrative Judge in White Plains, who then in turn forwarded it to Judge Pagonis in Dutchess County. The burning question is why would Judge Weiner sign the 'Order to Show Cause' on 4-1-03 and then immediately recuse himself? Then by Order dated 4-2-03 (See *Exhibit #49*) of the Administrative Judge Nicolai assigned the McCormick Estate to Judge Pagonis in Dutchess County? Something is not Kosher here! During this period when the Estate was getting what I refer to as the 'fast shuffle' the question of the physical location of the 'Estate File' became an issue. What we were told was that the 2nd Department Appellate Court in Brooklyn had lost the file. We went to the Appellate Court (Monroe Place) and spoke to a gentleman who said that he had sent the complete file back to White Plains (Surrogate's Court) and was not happy that they (Jody Keltz) were saying that he lost the file. He told us he had made various calls including Rockland County to see if they possibly had it, no one had the McCormick Estate file. He volunteered that it was his opinion that Westchester had done the deed of having the file disappear, destroying it! But why? The Patterns and Practices begin to become clear - No Docket/Index - No File - No Record - No Proof - No Problems! I believe that the Patterns and Practices of this Criminal Fraud, Obstruction and Suppression becomes clearer! And for what end - The cover-up, suppression and obstruction with intent of the Fraudulently *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 in my opinion!

We also went to Rockland County and spoke with Virginia Athens, Chief Clerk (*Exhibit #79* - 1 pp.) about the missing file. She told us they never had any file for the Estate and when we asked for a Certified Copy of what the Judge had signed, she said that '*they didn't sign anything*' - we did not show her the 'signed' copy by Judge Weiner of the document that we had. We also, requested a copy of the docket sheet for their tenure. She told us that there was 'No Docket Sheet,' they didn't have one! In reviewing these situations we have an understanding of the scope and intent of the unbridled Patterns and Practices of obstruction and suppression that knows no bounds in the commission of Criminal Fraud in my opinion!

79. Attached is a copy of a letter dated 2-14-01 (*Exhibit #80* - 2 pp.) to 'The Honorable Anthony A. Scarpino' from E. Leo Milonas, Esq., of the law firm of Pillsbury Winthrop willfully, knowingly and intentionally states that 'we' represent **Bankers Trust Company** one of the co-executors of the McCormick Estate. The purpose of this letter was to request the Court's permission to file a motion for 'Partial Summary Judgment' which in his words "...will streamline this matter, which has been pending since 1988." Mr. Milonas states his client **Bankers Trust Company** is a co-executor of the McCormick Estate, *so what proof of this assertion does he have?* Let's see their Letters of Authority! At this point we did not know that the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89, did not list the nominated Executor (in Will - See *Exhibit #1*) **Bankers Trust Company**. *The Fraudulent Illegal entity Bankers Trust Company of New York is listed on the Flawed Defective Permanent Letters Testamentary*

(dated 1-25-89) an entity that in fact did not come into existence until 9-7-99, over ten (10) years after the date of the Flawed Defective Permanent Letters Testamentary (dated 1-25-89) for the McCormick Estate. So right from the start of this letter Mr. Milonas, an Attorney at Law (and Officer of the Court) willfully and knowingly with intent enters into criminally fraudulent statements and actions. Bankers Trust Company never had any legal standing, authority or jurisdiction at any time in the McCormick Estate. (See Exhibits #4 & #5) It should also be noted here that this was before we discovered that the new Surrogate, Judge Scarpino had also worked at Bankers Trust Company (nothing like a nice 'Big Conflict or Conflict of Interest!') Ethics be damn, we can pull another fraud, obstructing, suppress and coverup the initial fraud of the Bank and their Attorneys White & Case! The three monkeys - Hear no evil, See no evil and Speak no evil! It all begins to come together - The continued Patterns and Practices go on with intent to coverup, suppress and obstruction of the initial frauds on the Estate. I believe that E. Leo Milonas has willfully and knowingly with intent Perjured himself. More of the Patterns and Practices in my opinion!

80. Attached is a copy of a letter dated 5-10-01 (*Exhibit #81* - 3 pp.) to Robert M. DiBella, Esq., Principal Court Attorney Westchester Surrogate's Court from E. Leo Milonas, Esq., of the law firm of Pillsbury Winthrop effectively complaining about some perceived slights. The second paragraph (on page one and continues to page two) of this letter is of interest since it goes into Mr. Milonas's version of the Courts administrative history of the Estate. Once again the mantra and intent of the 'Big Lie' and Obstruction is clear - his client **Bankers Trust Company is an Executor of the Estate and they are therefore entitled to certain rights!** The enduring and undeniable truth is that *Bankers Trust Company was not named on the Flawed Defective Permanent Letters Testamentary dated 1-25-89 and, therefore, have no legal standing, authority (and never did) or jurisdiction to bring any legal action as an Executor (all void) in the Estate of my husband Edmund J. McCormick and the Bank, it's Attorneys and sadly also the Court knew it and that's when the coverup, suppression and obstruction began (I believe in 1996 based on the documentary evidence).*

First, I believe that E. Leo Milonas Perjured himself with intent and *Second*, every piece of paper (filing of false instruments) filed during this litigation by the Convicted Federal Felons **Bankers Trust Company** and any of their attorneys was so filed with the intent to engage in a Criminal Fraud, Obstruction and Suppression, since I believe that they had the knowledge (*since they did it!*) that the name (*Bankers Trust Company of New York*) on the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 is Fraudulent and will be stricken from the record! The intent of the Patterns and Practices of the ongoing obstruction and Fraud unfolds in my opinion!

81. Attached is a copy of a letter dated 2-7-97 (*Exhibit # 82* - 2 pp.) from Winthrop Rutherford, Jr., of the law firm of White & Case addressed to me (Suzanne McCormick) allegedly in response to my letter of 1-24-97. The two (2) salient points in this letter were that the picketing (due to the refusal of **Bankers Trust Company** and White & Case to give forthright answers to me and the children's questions) was not appreciated and the information and figures on an account that my husband held at **Bankers Trust Company**. Mr. Rutherford states that the account was "...opened on February 7, 1986 as a cash investment [Balance \$2,657,773.] service account, and was switched to an investment advisory account in June of 1987. The account was closed on November 23, 1988,...." and the Balance was \$1,558,672. My husband was in the hospital on November 23rd, 1988 in a coma, he died on November 27th, 1988. So who closed the

account? It surely wasn't my husband and no one else had authority? One final point on this issue we have not been able to discover this account or this figure in the so-called Final Accounting that the Fraudulent Executor and convicted Federal Felon **Bankers Trust Company** and their Attorneys filed as a False Instrument with the Court! The Patterns and Practices with intent were at work early in the process in my opinion based on the documentary evidence!

82. Attached is a copy of a letter dated 8-20-98 (*Exhibit # 83* - 2 pp.) from Philip H. Schaeffer of the law firm of White & Case to our attorney at the time Peter Raymond, Esq of Hall Dickler Kent Friedman & Wood regarding the picketing of the McCormick family at **Bankers Trust Company**. Mr. Schaeffer also said that he was including a copy of the "...offensive flyer so that the court may be aware of the facts should it be necessary for **Bankers Trust [Company]** or White & Case to seek relief from the Surrogate in the event that they resume their inappropriate conduct." The exercise of Constitutional Rights is deemed 'inappropriate conduct' by the attorneys at White & Case. Well I deem the actions of White & Case (and Pillsbury Winthrop) and their client **Bankers Trust Company (a Convicted Federal Felon)** who have no proof of legal standing, authority or jurisdiction with regard to my husband's Estate a Criminal Fraud! This letter was meant to silence us and be chilling, and in my opinion it shows the Patterns and Practices with intent of the 'White Shoe' law firms.

83. Attached is a copy of a letter dated 9-7-98 (*Exhibit #84* - 7 pp.) from Dennis McCormick to our attorney Peter Raymond regarding the 'Schaeffer/White & Case' letter (See *Exhibit #83*) and lists many other issues concerning the Estate to which we were seeking answers. It important to remember that at this time we did not know that the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 did not list the nominated Executor **Bankers Trust Company** and therefore, *it did not have any legal standing*. We believe the documentary evidence is clear, and that the law firms (White & Case and Pillsbury Winthrop) knew this material fact. How could they not know? The Patterns and Practices of Obstruction with Fraudulent intent continues in my opinion!

84. Attached is a copy of a letter dated 10-2-95 (*Exhibit #85* - 3 pp.) from Dennis McCormick to Mr. William Wilkie, Managing Director of **Bankers Trust Company** concerning the picketing of the Bank and White & Case. Dennis details the incidents that they were subjected to and also references Mr. Wilkie's letter dated 9-5-95 (picketing of 8-28 & 8-29-95) that contained Wilkie's "...not so subtle threats..." and further stated that Wilkie had "... the audacity to imply that a continuation of our protest will cost us money (page 2, last paragraph)." I believe that Mr. Wilkie knew that his employer, **Bankers Trust Company was not a legal Executor of my husband's Estate** (not listed on *Flawed Defective Permanent Letters Testamentary*, dated 1-25-89) at this time and the obstruction with Fraudulent intent was in full swing! Also, let us not forget that this is the same Mr. Wilkie that committed Perjury during his deposition on 4-13-98 (See *Exhibit #55*) that was revealed and proven with documentary evidence approximately three (3) years later on 6-20-01 (See *Exhibits #56 & #57*) when he told the truth! **Both Bankers Trust Company (Convicted Federal Felons) and their attorneys repeatedly and oppressively threatened that we/I will be responsible for their fees is absurd (and illegal) since they never had any legal standing, authority or jurisdiction in the McCormick Estate and they knew/know it, which is what the Obstruction, Suppression and the Complicity of the Surrogate's Court issuance of altered Official Records (See Exhibits #6, #7 & #10), i.e. the Flawed Defective Permanent Letters Testamentary dated 1-25-89 (See Exhibits #4 & #5) is**

part of - they have and continue in an ongoing manner to fraudulently game the system! From what I understand I believe that they should be severely sanctioned for their knowingly and willfully with intent engaging in what I believe are criminal activities. I have been informed that both the altering of the Official Court Records (Flawed Defective Permanent Letter Testamentary dated 1-25-89) and Perjury are criminal matters, that then leads us into the intent of the obstruction, suppression and coverup. I believe that this is part of the ongoing Patterns and Practices with intent of Obstruction, Suppression and Criminal Fraud! You can't make this stuff up!

85. Attached is a copy of an email dated 12-27-99 (*Exhibit # 86* - 1 pp.) from Dennis McCormick to our attorneys regarding the settlement letter from Mr. Keyko dated 12-23-99 and his (our) view of it. During late October 1999 while picketing Deutsche Bank a gentlemen accepted one of our leaflets and after reading it for sometime came and asked to speak with us regarding what was in the leaflet. After an extended conversation (questions and answers) he asked us what we wanted. We replied that we want to sit down at a settlement table and negotiate in good faith a fair and equitable settlement. His name was Troland S. Link, General Counsel, Deutsche Bank North America (See *Exhibit #20*), he assured us that he would have counsel contact our attorneys and that turned out to be Anne T. Schwab, Senior Counsel of Deutsche Bank. Then Mr. Keyko began and demanded preconditions prior to sitting down that were agreed upon! Then Mr. Keyko in a sign of egregious bad faith said he would not sit down with us. They would go through the courts! Also, we were not aware nor informed of the fact that **Bankers Trust Company had become a convicted Federal Felon as of 7-26-99, more unclean hands!** The Patterns and Practices are ongoing to this day in my opinion!

86. Attached is a copy of an dated 11-15-01 (*Exhibit #87* - 1 pp. - Bates # HD-0245) from David Keyko to Dennis McCormick, Peter Raymond and Mr. Milonas - RE: Non-collection Clause. This is in regard to the settlement with the stepchildren (that I had no knowledge of at the time as a Legal Executor) and their financial exposure concern legal fees with Peter Raymond (Hall Dickler et al.) that directly involved me as a Legal Executor (and Mr. Keyko knew it!) and I was not a party to these negotiations that further damaged me. Therefore, I continue to object and don't consent on an ongoing basis.

87. Attached is a copy of selected pages from a "Settlement Proposal" of the Executive Summary - marked 'Privileged and Confidential' dated 6-25-02, (*Exhibit #88* - 6 pp.) that was delivered to Deutsche Bank Executives in Frankfurt Germany who said that they would review it and be in direct contact. This document was the sum total of our knowledge of the Estate as of the date (6-25-02). Mr. Keyko's response was negative to our good faith efforts (to reach a fair and equitable settlement) and I believe he used this "Settlement Document" at a Deposition! We did not know that **Bankers Trust Company** was not listed on the *Flawed Defective Permanent Letters Testamentary* dated 1-25-89 and had no legal standing, authority or jurisdiction! Also, since we did not know this material fact we can only now understand some of the obstruction, suppression and intent of the Fraudulent Criminal actions! **All the time and money that has been spent on this illegal litigation is unreal - all the motions, the filing of false instruments, depositions, lawyering, paperwork, time, money, stress, aggravation and oppression all one Big Criminal Fraud and it's all void based on the underlying Criminal Fraud, a total waste of time and they all knew it and what was the purpose!** Who would belief this? **Bankers Trust Company (a Convicted Federal Felon)**

and their attorneys repeatedly obstructed and suppressed this matter and they have the Courts involved in the altering of Official Courts Records, a felony (See *Exhibits #4, #5, #6, #7 & #10*) that directly involves Surrogate Judges in furtherance of these Criminal Patterns and Practices with intent in my opinion! I believe that the Patterns and Practices are undeniable and unalterable!

88. Attached is a copy of a letter dated 5-5-04 (*Exhibit #89* - 1 pp.) from David Keyko to Jason Bogli in which Mr. Keyko dismisses my settlement efforts and it is quite apparent that he looks "...forward to resolving this matter judicially ..." which is interesting since at this time the 'Secret' of the Flawed Defective Permanent Letters Testamentary dated 1-25-89, was out of the 'Closet' and the documented fact that their 'Client' **Bankers Trust Company** was not on the Flawed Defective Permanent Letters Testamentary (dated 1-25-89) and had no legal standing, authority or jurisdiction whatsoever tells a story! This continues to show the ongoing obstruction and suppression with intent and the Patterns and Practices in my opinion! I wonder if Mr. Keyko or for that matter anyone of these '*Officers of the Court*' have any knowledge of what a *Misprision of felony means?*

89. Attached is a copy of a letter dated 1-18-06 (*Exhibit #90* - 2 pp.) from David G. Keyko to The Honorable James D. Pagonis regarding the 'Secret Stipulation' (See *Exhibit #50*) and an article that appeared in Absolute magazine (October/November 2005). As Mr. Keyko knows since we provided him with what appeared on the internet the details were not part of the document. Mr Keyko also is aware that his 'Client' **Bankers Trust Company** (a convicted Federal Felon) who's name does not appear on the *Flawed Defective Permanent Letters Testamentary* (dated 1-25-89 has no legal standing, authority or jurisdiction) is being extremely disingenuous since he knows that the Bank provided details on their '*Statements*' that have not been sealed. It is open source material. More of the ongoing oppressive Patterns and Practices of bad faith and dirty tricks in my opinion!

90. Attached is a copy of two (2) pages from the Association of the Bar of the City of New York dated April 2004 (*Exhibit #91* - 2 pp.) of which E. Leo. Milonas was President at the time. His article is Titled - '*Pursuing High Ethical Standards*' which I personally find quite interesting with the McCormick Estate! Mr. Milonas states the Association's founding missions was to elevate the standard of integrity in the legal profession. In light of his involvement in the McCormick Estate and the Obstruction and Suppression of same with intent we must question his ethical standards in my opinion. We on at least one occasion 'picketed' the NYC Bar Association on 44th Street. The reception was not warm as I recall, these Officers of the Court and their minions threatened us and told us we were trespassing on their sidewalk, we were on the public sidewalk. We told them to call the Police and they didn't - we probable should but, didn't think of it at the time. They have no respect for anyone else's personal rights and freedom, except their own in my opinion!

91. Attached is a copy of an Affidavit of Jonathan Manny Place (*Exhibit # 92* - 3 pp.) dated 11-21-02 in which he details his 'oppressive and abusive' encounter with Philip Schaeffer of the law firm of White & Case at a Court Hearing in NYS Supreme Court in New York County during December, 1999. I believe that the Patterns and Practices of oppression and obstruction never stop!

92. Attached are copies of letters (*Exhibit #93* - 4 pp.) written to Winthrop Rutherford, Jr. at the law firm of White & Case - the first is dated 12-10-12, in which I asked - "What is the position of White & Case and you [Win Rutherford] with regard to Ed's [my husband] Estate" this letter had an enclosure (Exemplified Copy of the Permanent Letters Testamentary dated 1-25-89 of the McCormick Estate - See *Exhibit #5*) which lists the non-existent fraudulent (and non-nominated) entity *Bankers Trust Company of New York*. When I did not receive any response I wrote again on 1-2-13 seeking an answer.

93. Attached are copies of letter dated 1-8-13 from Philip H Schaeffer (*Exhibit #94* - 2 pp.) of the law firm of White & Case with a copy of a letter dated 12-17-12 (I never received this letter!) from Mr. Schaeffer in which he purports to respond to my letters (See *Exhibit #93*). He states that the "...position' of the Firm and Mr. Rutherford is that since both terminated their representation of the executors if [sic] that estate so many years ago, they have no 'position' with respect to the estate other than as a creditor of the estate. Otherwise, we refer any questions you may have to Mr. Keyko with whom you are, of course, acquainted." Since Mr. Schaeffer states that it is the 'position' of the law firm of White & Case and Mr. Rutherford that both have terminated their representation of Estate so many years ago - they do not represent the Estate. I never got any written notice of a termination of White & Case It would of course be interesting when that 'termination' point in time was? Was it when they (White & Case) filed the 'Petition' (See *Exhibits #40 & #41*) for their client *Bankers Trust Company (who never has been a legal Executor of the Estate)* and '*Abandon' the legal representation of the Estate in February 1989?* The next question that this statement also raises is Mr. Keyko now representing the Estate as well as *Bankers Trust Company?* *The record shows that the law firm was engaged (and Mr Rutherford) as the Estate Attorney during December 1988 shortly following my husband's death.* The documentary evidence also shows that when the law firm filed the 'Petition For Payment' for their 'Client' *Bankers Trust Company* (See *Exhibits #40 & #41*), and we now know since we found these documents and it was confirmed by the then Surrogate (circa 1999), the law firm of White & Case had abandoned the Estate of my husband and the Estate had *No Legal Counsel from that point on!* And it is a matter of record that Mr. Wilkie of *Bankers Trust Company* made sure that \$250,000 was paid (circa 1996) to *White & Case as part of the willfully and knowingly with intent De-Frauding the Estate - and I demand that these Estate monies be returned with interest and damages - also I demand that a criminal action be instituted against the law firm of White & Case and the individual attorneys involved with the McCormick Estate.* Mr. Schaeffer as you will see also notes that he is sending along Mr. Rutherford's Affidavit of Legal Services with the Invoice, which is very considerate, since I believe it further solidifies the intent of the criminal case against White & Case et al., for the ongoing Fraud, Suppression, Filing of False Instruments and Obstruction - more Patterns and Practices! For the record - Mr. Schaeffer has stated previously in writing that he would not communicate with me! Also, following the first day of the deposition of his partner Winthrop Rutherford, Jr., Mr. Schaeffer gratuitously uttered a few derogatory personal thoughts regarding woman Executors in my presence along with other witnesses. I believe that the Patterns and Practices continue along with the arrogance and hubris!

93. Attached is a copy of an Order to Show Cause dated 3-22-04 (filed stamped 3-29-04 Westchester Surrogate) signed by Judge Pagones and selected pages of the Affirmation of Jason Bogli, Esq. (*Exhibit #95* - Total of 14 pp) which calls for a "Compelling Decision on Removal of Bankers Trust Co." - "To Consider Additional Evidence on That Motion" - "*For Payment of*

Principal and Income Pursuant to the Qtip Trust - This document languished for years apparently until two (2) employees of the Court retired and then only after the letter dated 5-5-12 was this matter discovered? It is not clear that this was ever decided? ***I have never been given any income from my husband's Estate in violation of the Will (See Exhibit #1).*** Again, the name **Bankers Trust Company** is not on the ***Flawed Defective Permanent Letters Testamentary*** dated 1-25-89, so how can the Bank or their attorneys engage in any litigation in the Courts - they do not have legal standing, authority or jurisdiction and I continue to Object and don't Consent to these matters. How can they 'Hold Estate Monies?' The Obstruction, Suppression and Altering Official Court Records with intent feeds the ongoing Fraudulent Patterns and Practices in my opinion! When this document was filed we did not have the information and documentary evidence that we have today.

94. Attached is a copy of a letter dated 3-13-13 from David Keyko to Erica DeTraglia, Esq., Chief Clerk, Dutchess County Surrogate's Court (***Exhibit #96*** - 3 pp. with mailing envelope) on which my attorney Jason Bogli (Note that the listed zip code '03035' is incorrect - the correct zip code is '06035') was copied along with my former attorney (For Settlement Purpose Only) Sam Gilbert who additionally was copied. I received this copy by regular mail from Sam Gilbert on 3-29-13. It bears the handwritten notations indicating that it was faxed to "***David 3-22-13 Fax: 212 858 1500***" (Emphasis Added) and confirming my voice mail message, I no longer represent Suzanne McCormick effective 1/10/13 and further states "I did not file a notice of appearance - I have forwarded your letter to Ms McCormick." The question is why is Sam Gilbert listed whatsoever, since Mr. Keyko was informed prior of this fact? Also, my attorney Jason Bogli, who was copied also alerted me to this letter when he finally received it (see prior note on the issue of the zip code). Mr. Keyko also states that "***I have copied the counsel to whom your letter of March 6, 2013 was addressed.***" Mr. Keyko continues "***In addition, I have copied Mr. Samuel J. Gilbert. Mr. Gilbert has advised me that he has been retained by Mrs. McCormick to represent her in this matter. I advised Mr. Gilbert that a conference at which the substitution of Mr. Jason Bogli for Dowd & Marotta LLC was approved, the Court stated that it would not permit Mrs. McCormick to change lawyers again and that if she no longer wished to employ the services of Mr. Bogli, she would have to appear pro se.***" (Emphasis Added) Considering Mr. Keyko's position with regard to the Criminal Fraud that he and his law firm are involved in this is pretty bold! It should be noted for the record that "Neil Grimaldi, Esq., 2860 Buher Avenue, Bronx, NY 10461" had never filed a Notice of Appearance in this Matter and in fact as the record will show was only present for part of one day of Mr. Hanley's deposition and that was his sole involvement! To my knowledge he has had no contact with either Mr. Hanley or myself for over 10 years and I have no idea who, why or the purpose of his name appearing and are facts that both Mr. Milonas and Mr. Keyko are aware - more Dirty Tricks. I believe that the continuing Patterns and Practices keep reappearing.

95. Attached is a copy of a Decision, Order And Decree dated 4-5-13 (***Exhibit #97*** - 16 pp.) Allegedly regarding the McCormick Estate. I received this document by regular mail on 4-11-13 and I note ***for the record that the name of my attorney of record Jason Bogli, Esq., is not listed on the service list so we have a defective flaw to start with, however the name of a former attorney (Sam Gilbert) is listed!*** Wonder how that happened - More Dirty Tricks from Mr. Keyko?

First - Bankers Trust Company is not listed on the Flawed Defective Permanent Letter Testamentary dated 1-25-89 - See Exhibits #4 & #5 - So therefore, Bankers Trust Company

now known as *Deutsche Bank Trust Company Americas* (See Exhibits #13 & #15) has no legal standing, authority or jurisdiction and never did!

Second - *The underlying fundamental issue of the Flawed Defective Permanent Letter Testamentary dated 1-25-89, is not addressed! Why would this Court not address this basic fundamental issue, would it be because this Court willfully, knowingly and intentionally executed a Fraudulent document with intent (See Enclosure #10) that altered and criminally falsified the Flawed Defective Permanent Letter Testamentary (dated 1-25-89) and therefore, the Official Court Records? (See Exhibit #10) As all Attorneys know Altering Official Court Records is a Felony - then there's the Obstruction and Suppression to deal with that all feeds in to the ongoing and continuing Patterns and Practices of the criminal acts. (See Exhibits #4, #5, #6, #7 & #10) As everyone knows we have been aware of the fact that the name on the Flawed Defective Permanent Letters Testamentary is a Fraud for some time. Approximately two (2) months ago we were alerted to the material fact that both Surrogate Judge Anthony Scarpino and Surrogate Judge James Pagonos (and their Court Clerks) executed 'sworn 'documents as to the names of the Alleged Legal Executors of my husband's Estate that were fundamentally false in the furtherance of the criminal fraud of altering Official Court Records. (See Exhibits #4, #5, #6, #7 & #10) In my opinion these Judges and their clerks knew what they were doing, they did these acts willfully, knowingly and intentionally, this was no mistake! I believe that the intent of the Patterns and Practices are overwhelming.*

Third - *The documents that are mentioned (listed) in this document (Exhibit 97) are at least nine (9) years old and we have been unable to locate them if we ever had them. This raises the issue of the Statute of Limitation and Doctrine of Laches, all these papers have expired. Further, the way this is done it is impossible to try to reconstruct the documents - nothing is dated - there are no dates on any of these listed documents! Is there a reason and purpose for this? This then goes to the Complete Docket/Index for the McCormick Estate, that we have been told by the Court does not exist! (See Exhibits #48, 58 & #59) If there is no record whatsoever of the Docket/Index absolutely anything can be placed in the record and what can we prove - after what we have discovered and have the documentary evidence of regarding the criminal events directly involving the Court with regard to the Flawed Defective Permanent Letters Testamentary dated 1-25-89 - HOW CAN ANYONE TRUST THE COURTS! But, in a way what is more shocking is that any Court would consider taking any actions on documents and submission that are for the most part over nine (9) years old? The Statue of Limitations and Doctrine of laches both come into play due to the length of time that the Court sat on their hands and did nothing - Why did Judge Pagonos do that? All these papers have expired and Mr. Keyko knows it! So how can you make any rulings on expired papers? My former attorney Sam Gilbert told me that he lectured Mr. Keyko on the Statute of Limitations when he brought up these Motions et al. that were over nine (9) years old and Mr. Keyko then dropped the subject!*

Fourth - *Then there's the matter of the Docket/Index that doesn't exist! No Record - No Problem which has been addressed in this document already. The Surrogate's Court has stated that there is No Docket Sheet for the Estate of Edmund J. McCormick - yet they are required by law to keep one (See Exhibit #48)! How do I appeal without a Complete Docket/Index Sheet! Again, the obstruction and suppression with intent of my rights and the Estate! The Patterns and Practices are undeniable in my opinion!*

Fifth - *I am not a Felon! I do not have Felons around me with the exception of Convicted Federal Felon Bankers Trust Company! And the Bank has a gaggle of Attorneys at Law to protect them and in the process are involved in further Criminal acts! Nevertheless, even though I am not a Felon I am treated as such - Judge Pagonos who's name appears on a sworn*

Certificate that he knowingly, willfully and intentionally knew altered Official Court Records (Altering Official Court Records is a Felony!) purports to says that I am prohibited from having certain people to assist me! All this is based on documents that are at least ten (10) years old and that we don't have copies of! There was no hearing or any presentation of evidence, no opportunity to refute these scurrilous statements from a Bank and **Attorneys that have No Legal Standing, Authority or Jurisdiction in this Estate! It's all one Big Fraud and they illegally continue 'Aided and Abetted' by the Court to coverup, obstruct and suppress the Criminal Fraud! The oppression continues and part of this is to fraudulently bleed me, the widow of my money!** And with no Docket Sheet who knows what has been passed off as real by the Attorneys who I believe have repeatedly represented that **Bankers Trust Company, a Felon** is a Legal Executor of the Estate and the best part is they have no proof and these very same Attorneys, as the documentary evidence shows, have engaged in repeated Fraudulent acts including the repeated filing of false instruments! All this from the convicted Federal Felon **Bankers Trust Company** who has no legal standing, authority or jurisdiction (and never did), whatsoever, in the Estate of my husband Edmund J. McCormick. The Attorneys that are representing **Bankers Trust Company** know they have no legal standing, authority or jurisdiction but they don't care because the fix is in! The documentary evidence shows that **Bankers Trust Company is not listed on the Flawed Defective Permanent Letters Testamentary (dated 1-25-89) and never was (See Exhibits #4 & #5)! They have no legal standing, authority or Jurisdiction! This is all one big criminal fraud!** This goes to the ongoing and continuing Patterns and Practices with intent of willfully, knowingly and intentionally engaging in Criminal Fraud, Obstruction and Suppression et al. in my opinion! Misprision of felonies keep coming up!

96. My attorney Mr. Bogli provided me with his document signed by Mr. Keyko on 8-9-01 which is an alleged demand by "CO-EXECUTOR BANKERS TRUST COMPANY'S POST-EBT DISCOVERY AND INSPECTION DEMAND TO CO-EXECUTOR SUZANNE V. McCORMICK" (*Exhibit #98* - 10 pp.) This document also included an alleged 'Affidavit of Service' of an individual named 'Brendan Hickey' that states in part that "On Friday, August 9, 2002, I served the Co-Executor Bankers Trust Company's Post-EBT Discovery and Inspection Demand to Co-Executor Suzanne V. McCormick, dated 8/9/02, by prepaid, first-class mail, ..." The first point is that an issue is that Mr. Keyko signed this alleged document on 'August 9, 2001' and the second point is that then we have the alleged Affidavit of Service in which Brendan Hickey swears under oath in his Affidavit that he placed this alleged document in the US Postal System on 8/9/02! Are we the only ones to see that the dates on the Affidavit are one year apart! What did Attorney Keyko do here, a little back dating? - Mr. Keyko we now know has perjured himself and has committed Fraud with this Document (and others) since **Bankers Trust Company has no legal standing, authority or jurisdiction in the McCormick Estate See Exhibits #4 & #5!** In the body of the document dates in the year 2002 are repeatedly mentioned and even the Sworn Affidavit of Service is dated "9 August 2002" - however Mr. Keyko allegedly signed it on 8-9-01? Is this another Fraud on just another Dirty Trick by Mr. Keyko? In any event this is another chronic example of the filing of a False Instrument with the Courts since **Bankers Trust Company** is not and never was a legal Executor of my husband's Estate and has no proof of that assertion. (See *Exhibits #4 & #5*)

97. Attached is an article dated 12-8-09 title "Corruption threatens 'soul and fabric of U.S. - FBI" - in which Special Agent John Gillies states that Corruption is the Country's 'No 1 criminal

threat' which I can identify with after we look at my husband's Estate and the documentary evidence of Corruption, Fraud and Criminal activities in my opinion based on the documentary evidence. (*Exhibit #99* - 1 pp.)

98. On 5-1-13, I received by mail a copy of a letter dated 4-25-13, (*Exhibit #100* - 2 pp. - with envelope) from my former counsel (For Settlement Purpose Only) Samuel Gilbert that he addressed to David G. Keyko. Mr. Gilbert *notes* that 'Somehow' his name continues to appear on 'File 3522-1988' Service Lists and states that "... I assume arose from information provided by you. You know that in early January, any representation/contact/services to, with, or for Suzanne McCormick ended." "Please have my name removed from any Service list or list of Representatives/Counsel and so advise the Court. *You are the only one to do this. If they even know my name, it can only have been from you. I never appeared for, or wrote to anyone other than you (about) her.*" (Emphasis Added) *My attorney of record (for years) Jason Bogli who Mr. Keyko is aware of has been removed from the service list (See Enclosure #97) which it is my understanding makes this Decision and service Defective!* Now the question becomes who had Mr. Bogli's name removed? As Mr. Gilbert states Mr. Keyko was the only one to have his name placed (and Mr. Bogli's removed) on the service list and what would the purpose of these 'Dirty Tricks' be? As Mr. Gilbert eloquently points out - "*You [David Keyko] are the only one to do this.*" (Emphasis Added) So it is quite clear that this was not a mistake or error, I believe that it was premeditated on *Mr. Keyko's part designed to damage me.* More Dirty Tricks! But what can you expect from an attorney who is representing the convicted Federal Felon **Bankers Trust Company** in my opinion.

99. Attached is a copy of a letter dated 8-13-99 from the NYS Banking Department (*Exhibit 101* - 4 pp.) to the Parole Board in which it states that the Trust Department was involved in the criminal actions.

100. Attached is a copy of the business card (1 pp.) Ms. Jody Keltz, Court Attorney-Referee of the Westchester County Surrogate's Court who was in the Attorney assigned to the McCormick Estate. Also, attached is a copy of an article (2 pp.) dated 10-4-2012 in The Westchester Guardian titled New York Courts' Dastardly Deeds - The Departed: Resting in Peace or Spinning in Their Graves. The details the story of the Berta M. Murray Estate in the Westchester Surrogate's Court and how Mr. Jody Keltz and her husband wound up with Ms. Murray Scarsdale home from her Estate. (*Exhibit #102* - Total of 3 pp.)

101. Attached is a copy of a letter dated 4-1-03 from David G. Keyko to my attorneys Raymond R. Dowd and Jason Bogli. (*Exhibit #103* - 3 pp.) This letter and the subject is regard to the Substitution Action undertaken by White & Case wherein the 'new' entity as 9-7-99, **Bankers Trust Company of New York** (See *Exhibit #14*) would replace the convicted Federal Felon **Bankers Trust Company** (*Exhibit #13*) as a Fiduciary according to the Court filings. Was all this because the name **Bankers Trust Company of New York** is listed on the *Flawed Defective Permanent Letters Testamentary dated 1-25-89* and Mr. Keyko was concerned that we would figure this out?

102. Attached is a copy of a letter dated 1-18-06 from David G. Keyko to The Hon. James D. Pagones regarding the alleged 'Stipulation and Order' (See *Exhibit # 50*) and an article in the October/November 2005 issue of 'Absolute' magazine. Mr. Keyko and his client in a Secret

Settlement Process and excluded me as a Legal Executor. He says that my assistant Patrick Hanley saw a copy of the Stipulation prior to the time it was signed and approved! What Mr. Keyko fails to reveal in this letter is that this alleged 'Stipulation' was posted on the Internet as Mr. Keyko well knows and who knows how many thousands or even millions of people may have seen the 'Draft' unsigned copy. I believe this goes to the Patterns and Practices with intent of Suppression, Obstruction, Oppression and Fraud. (*Exhibit 104* - 2 pp.)

103. Attached is a copy of a letter dated 9-17-03 from Anne C. Bederka (an Associate of Mr. Keyko) to Raymond J. Dowd and David P. Geis regarding an alleged 'AT&T Corp. bond in the amount of \$4,127.60 which she states belongs to the Estate. At the time I found this strange since my husband had bonds that were each \$100,000 or more, nothing that small - realize now that this was an interest payment. Approximately two (2) years ago a source we had inside the Bank informed us that there was an AT&T bond in the amount of \$250,000, that was in Illinois. From what we have been able to ascertain from FOIL requests it has been transferred to New York. This Bond does not show up in the alleged so-called 'Final Accounting!' Why Not? The convicted Federal Felons **Bankers Trust Company** who Mr. Keyko represents knew about this, they had the knowledge - I/we didn't! What were they going to do, claim it and Enrich themselves and never say a word! I believe that this goes to the Patterns and Practices with the intent to Defraud the Estate and me. (*Exhibit #105* - 1 pp.)

104. Attached is a copy of a letter dated 2-13-96 (*Exhibit #106* - 2 pp.) from William J. Wilkie to me (Suzanne McCormick) regarding issues that I raise in letters of 2-9-96 and 2-12-96. What I want to point out is Mr. Wilkie's statement on page two (2) - "Your husband entered into partnerships with Ed McCormick, Jr. *and for years prior to his death partnership returns were filed* reflecting these arrangements. Moreover, the *ownership of the properties were properly reflected on the Estate's federal estate tax return.*" (Emphasis Added) This is the same Mr. Wilkie that would Perjury himself in a sworn deposition - *See Exhibits #55, #56 & #57.*

105. Attached is a copy of a note dated 2-4-98 from the IRS regarding the alleged 'partnership tax returns' and what wasn't filed. We gave the agent all the relevant details and he wrote back stating that - "After checking all records available it seems that the only years filed for all Employee Identification numbers were for years ending December 31, 1989 and possibly January 31, 1990." (*Exhibit #107* - 2 pp. - with mailing envelope) **Bankers Trust Company** and the law firm of White & Case provided me with alleged copies of Federal Partnership Tax Returns for the real properties, but the IRS then informs me that they don't have these returns when I asked for the records! (See *Exhibit #106*) I believe the Patterns and Practices of Criminal Fraud has festered in my husband's Estate for too long!

106. Attached is a copy of letter date 2-3-97 from the IRS to me (Suzanne McCormick) that (*Exhibit #108* - 1 pp.) answered questions that I had regarding the real property partnerships and what the percentages of ownership the Estate paid taxes on. His response was that on two (2) namely Cooper River Manor and Troy Court both were raised from 80% to 100% so the Estate paid based on the 100% figure after giving the 'partner' a 20% share! Mr. Wilkie asserts in his letter (*Exhibit #106*) that the ownership of the properties were properly reflected on the Estate's federal estate tax return. I believe that this further shows the Patterns and Practices of Fraud, Obstruction, Suppression and Cover-up in my husband's Estate.

107. Attached are copies of relevant pages from the 'Report of the Guardian Ad Litem with Respect to Petitioners' Application' dated 1-27-99 with regard to the Substitution of Fiduciary in the Matter of **Bankers Trust Company of New York** and **Bankers Trust Company (Exhibit #109 - 2pp)**

108. Attached is a copy a letter dated 12-3-99 (**Exhibit #110 - 2 pp.**) from Winthrop Rutherford, Jr. to Jonathan D. Bassett, Esq. with a list of documents that he is forwarding. One of the listed is a "Copy of the Exemption issued by the Department of Labor, as printed in the Federal Register for Monday, June 7, 1999." This letter is labeled a Exhibit D to the 'Report' which is **Exhibit #109.**

109. Attached is a copy of relevant pages from the Federal Register for Monday, **June 7, 1999** and it is labeled a Exhibit F to the 'Report' which is **Exhibit #109.** It is not a "Copy of the Exemption issued by the Department of Labor" as Mr. Rutherford, Jr. has stated in his letter (See **Exhibit #110 - 8 pp.**). It is in fact an 'Application' for a Proposed Exemption for **Bankers Trust Company, Alex Brown Incorporated, and Deutsche Bank AG** dated June 2, 1999 and filed "6-4-99; 8:45 am" - with regard to the Employee Retirement Income Security Act of 1974 (**ERISA**) - It was not the actual Exemption!

110. Attached is a copy of a Facsimile dated 12-15-99 from David G. Hille of White & Case to Robert F. Van Lierop and Jonathan D. Bassett with regard to the **ERISA** Exemption and it is labeled as Exhibit G to the 'Report' which is **Exhibit #109.** A part of the Facsimile is a copy of the relevant page from the Federal Register for Tuesday, **July 27, 1999**, that grants the 'Exemption' to manage **ERISA** monies so the Federal Criminal Convictions could be overcome. The Exemption was signed on July 22, 1999 and filed "7-26-99; 8:45 am" The significance of this is extremely important since the Exemption with regard to the **ERISA** funds was granted prior to the actual conviction of the Criminal Felons in Federal Court in New York! The Conviction (See **Exhibit #20 - Transcript**) in the Federal Court before Judge John G. Koeltl began at "**4:15 p.m.**" on **7-26-99** The Federal Register states that the **ERISA** Exemption was signed "**7-26-99, 8:45 am**" - How did anyone receive a Federal Exemption to manage **ERISA** monies due to a Criminal Convictions when the Criminal Convictions had in fact not taken place? The Exemption was granted prior to the Federal Criminal Conviction! That's some Get Out of Jail Free Card! I believe that this egregious violation of the 'Public Trust and Ethics' is unconscionable. In my opinion it is a continuation of the Patterns and Practices of Fraud, Obstruction, Suppression and Cover-up that has corrupted our country.

111. Attached is a copy of a letter dated 12-22-99 from Philip H. Schaeffer of White & Case to Jonathan D. Bassett with regard to the 'Report' and 'Confidentiality' of all the documents associated with same. Especially with regard to the information involving the New York State Parole Board, a good deal of the information contained therein is intended to be confidential! This document is labeled as Exhibit H to the 'Report.' (**Exhibit #113 - 2pp.**)

112. Attached is an Exemplified Copy of an 'Affidavit of Service' dated 12-13-99 of **JOANN DISANTI** in which she states that on 11-4-99 she served by first class mail the **Notice of Petition dated 10-29-99** in the(See **Exhibit #34**) Substitution of Fiduciary Relationships to the listed 46 'Surrogate's Courts in various States. (**Exhibit #114 - 10 pp.**)

113. Attached is a copy of an 'Affidavit of Regularity' dated 12-16-99 by David G. Hille of the law firm of White & Case that was filed 5-22-00 (*Exhibit #115* - 6 pp.) with regard to the Substitution of Fiduciary Relationships. Mr. Hille notes on page three (3) of this document under #5 that the Affidavit of Service of JoAnn DiSanti dated 12-13-99 was one of the critical steps in this process.

114. Attached is a copy of a sampling of various letters sent by myself (Suzanne McCormick) and Jonathan Manny Place to the Surrogate's Court list on the Affidavit of Service (See *Exhibit 114*). Between the two letters sent to the Courts approximately half responded and they effectively said that they had no record of receiving the Notice of Petition! I am only including a few samples and have the other letters if anyone wishes to check these trouble facts. (*Exhibit #116* - 11 pp.) The egregious ongoing and continuing Patterns and Practices with intent of willfully, knowingly and intentionally engaging in Criminal Fraud, Obstruction, Suppression and Cover-up in my opinion.

115. Attached are copies letters dated 9-5-08 (1 pp.) and 8-15-08 (2 pp.) from David G. Keyko to The Honorable Shira A. Sheindlin RE: Suzanne McCormick v. The State of New York 08CV4438(SAS). In May of 2008, I filed a case that became a related (one of approximately 8) case to a case of an attorney who had worked at the 1st Dept. DDC and charged corrupt practices in the 1st Department Disciplinary Committee. I was working on an Amended Complaint within the 120 days and before I could complete that process Judge Sheindlin on 8-8-08 dismissed all the related cases sua sponte, (therefore, Mr. Keyko was never served) however the main case did go forward. I/we have since learned that Mr. Keyko was allegedly on the panel at the 1st Department Disciplinary Committee. To my knowledge Judge Sheindlin never responded to Mr. Keyko. (*Exhibit #117* - Total of 4 pp. - with copy of mailing envelope)

116. Attached is a copy of Affidavit of 'Objection' dated 12-2-99 and filed 7-17-00 by Elisabeth Sichel with regard to the Substitution of Fiduciary by **Bankers Trust Company**. In this document she details her sad story of her relationship with the Bank and her wish to rid herself of them. We spoke to her approximately five (5) years after she executed this document and she went into more of the sordid story. We asked her if she was aware why the Substitution took place and she said she didn't. When we told her that it was necessary due to the fact that **Bankers Trust Company** was a Federal Felon she was shocked and wished that she had that information. She told us that she was an attorney and also the Supervisory Judge in the Superior Court in Riverside California and was so happy to get rid of the Bank. I too echo her thoughts and wish that I too could get rid of the Bank and their Criminal ways.

117. I have gone through a great many documents to prepare this Affidavit and to comply to the vexatious discovery (based on papers in excess of 10 years old and all of which had been previously produced) that I have not seen in many years and it is sickening to see the plans and hopes destroyed by 'clerks!' Mr. Keyko keeps demanding the same things over and over in discovery all of which have been in Good Faith produced more than once, he is vexatious and is harassing me. On a personal basis the 'Professionals' *have stolen 25 years of my life that can not be replaced* - I'm a concert pianist - not an attorney - this odyssey has been a slow diligent and painful path of discovering the mess that the attorneys for the most part have created and all they can do is deny, deny, spin and game the system with obstruction and suppression.. I would like to see any of these weasels get up on a stage before 5 thousand people and play a solo concert! They

would all fall on their faces! Some of them have said I should have known the law - WHY - that's what you hire attorneys for!

118. Since the inception the Estate of my husband Edmund J. McCormick, **Bankers Trust Company** has fraudulently and illegally masqueraded as a Legal Executor notwithstanding the fact that they are not listed on the *Flawed Defective Permanent Letters Testamentary dated 1-25-89* and this is likewise irrefutable. During the time my husband was in the hospital in a coma **Bankers Trust Company** closed an account with \$1.5 million in it and we could not find it listed in the so-called Final Accounting submitted the convicted Federal Felons and signed by the perjurer William Wilkie! What happened to the money? *I have not received my full (only part) Marital Deduction that was taken on the Estate Tax Return.* The IRS was dumbfounded by this! Likewise I have not received my full legacy pursuant to Will of \$500,000, due the month after my husband's death, now 25 years ago. *I have never received one penny of income from my husband's Estate and I'm the Main Beneficiary! No Trust was ever formed pursuant to the Will, plus the right to draw \$50,000. Per annum!* I believe that I have proven that no one has a right to the money presently being held by the illegal fraudulent Executor (**Bankers Trust Company**) for years with no income to me (the Widow) as directed by the Will. And needless to say there is much more, but the underlying Criminal Fraud of the *Flawed Defective Permanent Letters Testamentary dated 1-25-89 is the beginning and the end!*

119. I can certainly relate to the man (whistle blower) that discovered the Bernard madoff scandalous fraud. For over 20 years he went to all manner of regulators and no one would listen or do anything - then the massive Criminal Fraud blew up!

120. Salient Restatement of Material Facts:

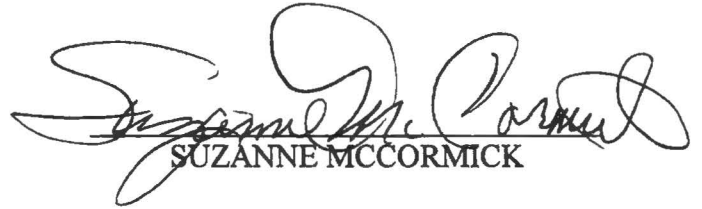
1. Letters of Authority - Flawed Defective Permanent Letters Testamentary dated 1-25-89, do not list nominated (Will) Executor - **Bankers Trust Company** - Instead a Fraudulent Illegal entity (*Bankers Trust Company of New York - See Enclosure #14*). No Legal Standing

2. The Estate attorney (as of 12/88) White & Case abandoned the McCormick Estate when they filed the Petition dated 2-7-89, on behalf of their 'Enduring Client' **Bankers Trust Company**. The Estate had NO legal counsel - but was paid \$250,000 to White & Case.

3. **On 7-26-99 Bankers Trust Company becomes a convicted Federal Felon (3 Felony Counts) in the Southern District of New York**). Felons can't be Fiduciaries!

121. Mr. Keyko and Bankers Trust Company's mantra has always been to attack me with sanctions. I have never engaged in this, however now I demand that the *Bankers Trust Company and the law firms of White & Case and Winthrop Simpson along with the attorneys directly involve in the Estate be heavily sanction both personal and professionally. This demand is made based on the documentary evidence contained in this document as well the record. I/we have become aware of the fact that Mr. Keyko has had ex parte communications with the Court including but limited to Confidential communications. Additionally, based on the Conflict due to Judge Pagones name appear on the Certificate dated January 2011, I hereby request that he disqualify himself and withdraw his Order. Additionally, owing to individual circumstances of my husband's Estate I hereby demand that Bankers Trust Company post a Bond in the amount of \$150 million which is approximately three (3) times the figure that passed through the Estate that they list in their alleged so-called Accounting. I believe that Criminal actions have taken place in my husband's Estate and as such this should be followed up. They not only stolen hard earned money - they have stolen 25 years of my life, who is going to make me Whole?*

My attorney has not assisted me in this document and does not have to approve it since it's my Affidavit. I do not waive any rights or privileges under law and I continue to object and don't consent to this Matter based on the forgoing documentary evidence. I further seek leave to amend this filing at any future time due to additional material documentary evidence that may be forthcoming.


SUZANNE MCCORMICK

Sworn to before me this the 19
day of June, 2013


NOTARY PUBLIC

MARIE C. SHADI
Notary Public, State of New York
Qualified in Westchester County
No. 4957208
My Commission Expires 12/18/2013

A 256

LAST WILL AND TESTAMENT

OF

EDMUND J. McCORMICK

Dated: November 20, 1985

WHITE & CASE
1155 AVENUE OF THE AMERICAS
NEW YORK, N.Y. 10036

Exhibit 1

I, EDMUND J. McCORMICK, residing in the State of New York, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils heretofore made by me.

FIRST: I direct that all my debts (other than any mortgage or other secured indebtedness) and funeral and administration expenses be paid out of my estate as soon after my death as convenient.

SECOND: I give and bequeath all tangible personal property owned by me at the time of my death and not otherwise effectively bequeathed, including, but not limited to, furniture, furnishings, rugs, pictures, books, silver, plate, linen, china, glassware, objects of art, (other than the collection of 19th Century paintings described in Paragraph Fifth hereof) wearing apparel, jewelry and automobiles, together with all policies of insurance relating thereto, to my wife, SUZANNE V. McCORMICK, if she survives me, or, if she does not survive me, to such of my children who survive me, to be divided among them by my Executors, in their absolute discretion, in as nearly equal portions as may be practicable, but any such property which said children do not desire or which my Executors, in their absolute discretion, determine should not be held for them or distributed to them, shall be sold and the proceeds shall

become part of my Residuary Estate. In the event that none of the above-mentioned beneficiaries are then living, then such property shall become part of my Residuary Estate.

I direct that all expenses, including, but not limited to, packing, shipping and insurance expenses incurred in connection with the distribution of my said tangible personal property shall be paid from my Residuary Estate as an expense of administration.

THIRD: I direct that all estate, inheritance, legacy, succession, transfer and other death taxes (including any interest and penalties thereon) imposed by any domestic or foreign laws now or hereafter in force with respect to all property taxable under such laws by reason of my death, whether or not such property passes under this my Will or any codicil hereto and whether such taxes shall be payable by my estate or by any recipient of such property, shall be paid out of Share B of my Residuary Estate, if my wife survives me and out of my Residuary Estate if she shall not survive me, and the provisions of any statute directing tax apportionment shall not apply.

FOURTH: If my wife, SUZANNE V. McCORMICK, shall survive me, I give, devise and bequeath to her the following:

(a). The sum of Five Hundred Thousand (\$500,000.00) Dollars. This sum shall be deemed to include any proceeds which she receives from life insurance on my life.

(b) My residential real property known as 231 Clinton Avenue, comprising contiguous parcels in the Village of Dobbs Ferry, Town of Greenburgh, County of Westchester, New York, and my residential real property in Manalapan, in the County of Palm Beach, Florida, together with the buildings and improvements thereon and any insurance policies of any kind protecting the same. If my wife shall not survive me, I direct my Executors to sell said real properties with the buildings and improvements thereon, as soon as may be practical in due course of administration and the proceeds of such sales shall become part of my residuary estate.

(c) Any and all shares of stock owned by me at the time of my death in McCormick Management Consultants, Inc., a New York corporation, or any interest in any partnership or stock in any corporation so succeeding to such business. If my wife shall predecease me; I direct my Executors to sell such stock or partnership interest and the proceeds of any such sale shall be part of my Residuary Estate.

FIFTH: With the aid of my wife, SUZANNE, I have accumulated a collection of 19th Century paintings. If my wife shall survive me, I give and bequeath to her the said collection of paintings, absolutely.

I suggest that my wife consult with Mr. Wunderlich, Mr. Maas and Mr. Wood of London, who have acted as our advisers on paintings, and receive their advice as to the best method of disposition of the paintings.

If my wife shall predecease me, I direct my Executors to sell said collection of paintings and the proceeds of such sale or sales shall become part of my Residuary Estate.

SIXTH: I give and bequeath the sum of Fifty Thousand (\$50,000.00) Dollars to my sister, HELEN LEAVER, of Bogota, New Jersey, if she survives me.

SEVENTH: I give and bequeath the sum of Five Thousand (\$5,000.00) Dollars to the YOUNG MEN'S CHRISTIAN ASSOCIATION of White Plains, New York.

EIGHTH: I give and bequeath the sum of Fifty Thousand (\$50,000.00) Dollars to each of my two grandchildren, DAVID McCORMICK and JASON McCORMICK, and the sum of Ten Thousand (\$10,000.00) Dollars to DAVID VELDERMAN.

My Executors and my Trustees shall also not be liable for any decision made pursuant to the powers granted herein, and any such decision shall be solely at the risk of such business or my estate or such trust.

I wish to advise my Executors that Mr. Alfred S. Howes is an equal stockholder with me in SVM, Inc., a corporation which is a party to a "Buy-Sell" agreement with me, pursuant to which said corporation has the right to buy my shares of such stock in accordance with the terms of the "Buy-Sell" agreement. I direct my Executors to honor said agreement.

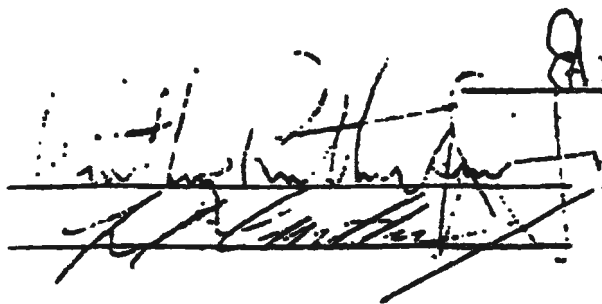
FOURTEENTH: A. I appoint ALFRED S. HOWES, HERMAN MARKOWITZ, my wife, SUZANNE V. McCORMICK, my son, EDMUND J. McCORMICK, JR., and BANKERS TRUST COMPANY, or the survivor or survivors, as Executors of this my Will.

B. I appoint ALFRED S. HOWES, HERMAN MARKOWITZ, my wife, SUZANNE V. McCORMICK, my son, EDMUND J. McCORMICK, JR., and BANKERS TRUST COMPANY, or the survivor or survivors, as Trustees under this my Will.

such circumstances that there is not sufficient evidence to determine whether or not such person survived me or survived such other beneficiary, as the case may be, I direct that for the purposes of this my Will such person shall be deemed to have predeceased me or to have predeceased such other beneficiary, as the case may be; but if my said wife and I should die under the circumstances aforesaid, she shall be deemed to have survived me solely for the purposes of Articles THIRD and TENTH of this my Will.

SIXTEENTH: Throughout this Will the masculine, feminine and neuter genders shall be deemed to include the others and the singular shall be deemed to include the plural, and vice versa; and reference to any fiduciary shall be deemed to include any successor, whether named herein or otherwise appointed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of November, in the year One Thousand Nine Hundred and Eighty-five (1985).

 Edmund J. McCormick (L.S.)

The foregoing instrument was, on the day of the date thereof,

signed, sealed, published and declared by EDMUND J. McCORMICK, the Testator therein named, as and for his Last Will and Testament, in the presence of us, the undersigned, who, at his request and in his presence and in the presence of each other, have hereunto set our names as witnesses.

Wm. H. K. [Signature]

Residing at

1115 Fifth Ave.
New York N.Y.

[Signature]

Residing at

10 Chesapeake St.
Chesapeake N.Y.

Residing at

STATE OF NEW YORK)
COUNTY OF ~~WESTCHESTER~~ ^{New York}) ss.:

WINTHROP RUTHERFORD, JR. and
LAURISTON CASTLEMAN, JR., being duly and severally sworn,
each deposes and says that:

1. Affiant resides at the address set forth
opposite his signature on the last page of the foregoing
instrument.

2. Affiant is acquainted with Edmund J. McCormick,
hereinafter referred to as the Testator.

3. On November 20, 1985, at 303 South Broadway,
Tarrytown, New York, the said Testator, in the
presence and sight of all of the undersigned affiants,
signed his name to the end of the foregoing instrument
and thereupon, in the presence and hearing of all of the
undersigned affiants, first declared the foregoing
instrument to be his Last Will and Testament and then
requested that all of the undersigned affiants sign their
names as subscribing witnesses, which each of the under-
signed affiants, in the presence and sight of the Testator
and in the presence and sight of each other, thereupon did.

4. Affiant has examined the signature at the
end of the foregoing instrument and such signatures are

the signatures affixed by the Testator and by each of the undersigned affiants.

5. The Testator, at the time of the execution of the foregoing instrument, was over the age of 21 years, was of sound mind, memory and understanding, was in all respects competent to make a Will, and was not under any restraint.

6. The foregoing instrument was executed by the Testator and witnessed by each of the undersigned affiants under the supervision of WINTHER RUTHERFORD, JR., an attorney-at-law.

7. The Testator, immediately after the execution of the foregoing instrument, requested each of the undersigned affiants to make his affidavit as to the foregoing.

[Handwritten signatures and lines]

Sworn to before me by each of the three foregoing subscribers this 11th day of October, 1985.

Marcia A. Escobar
Notary Public

MARCIA A. ESCOBAR
Notary Public, State of New York
No. 30-4788470
Qual. in Nassau Co., Cert. Filed in N.Y. Co.
Commission Expires March 30, 1986

the issuing of the first letters, except where it is otherwise specially prescribed by law or where the first or any subsequent letters are revoked as provided in 1413.

§706. When surviving or remaining fiduciary may act; when successor must be appointed.

1. Where one of two or more fiduciaries dies or is removed or where letters issued to one of them are revoked, a successor to the deceased fiduciary or to the one who has been removed or whose letters have been revoked shall not be appointed, except where such appointment is necessary in order to comply with the express terms of a will or lifetime trust instrument; but the others may proceed and complete the administration of the estate pursuant to the letters or lifetime trust instrument and may continue any action or special proceeding brought by or against all.

2. When all the persons to whom letters have been issued die or where letters issued to all of them have been revoked by a decree of the surrogate's court, or, in the case of a lifetime trust, when all persons serving as trustee die or are removed, without any successor trustee having been effectively appointed pursuant to the terms of the lifetime trust instrument, that court has, except in a case where it is otherwise specially prescribed by law, the same power to appoint a successor to the person or persons whose powers have ceased as if the letters had not been issued or as if no appointment had been made. The successor may complete the administration of the estate committed to his predecessor, he may continue in his own name a civil action or proceeding pending in favor of his predecessor and he may enforce a judgment, order or decree in favor of the latter.

§707. Eligibility to receive letters.

Letters may issue to a natural person or to a person authorized by law to be a fiduciary except as follows:

1. Persons ineligible

(a) an infant

(b) an incompetent

(c) a non-domiciliary alien except one who is a foreign guardian as provided in subdivision four of section one thousand seven hundred sixteen of this chapter, or one who shall serve with one or more co-fiduciaries, at least one of whom is resident in this state. Any appointment of a non-domiciliary alien fiduciary or a New York resident fiduciary hereunder shall be made by the court in its discretion (Eff. 8/2/95, Ch. 469, L. 1995)

(d) a felon

* (e) one who does not possess the qualifications required of a fiduciary by reason of substance abuse, dishonesty, improvidence, want of understanding, or who is otherwise unfit for the execution of the office.

* 2. Persons ineligible in court's discretion. The court may declare ineligible to act as fiduciary a person unable to read and write the English language.

§708. Qualification of fiduciaries.

Before letters are granted to a fiduciary, the fiduciary shall file in the surrogate's court or family court:

1. An acknowledged instrument stating the fiduciary's domiciliary address and designating the clerk of the court to receive service of any process issuing from the court in like manner and with like effect as if it were served personally upon the fiduciary, whenever the person so receiving letters cannot be found and served within the state after due diligence, which designation shall be irrevocable and shall continue in effect so long as the fiduciary remains in office and until full compliance by the fiduciary with the terms of a decree providing for his or her final discharge. If the fiduciary shall change his or her address so stated the fiduciary shall promptly notify the court of the new address.

ESTATE ADMINISTRATION IN NEW YORK

Andy and Laura recently lost their mother in a tragic accident. In addition to grieving the loss of their mother, they were faced with the daunting task of being named co-executors of their mother's estate.

Following the death of a loved one, family members not only must deal with the loss of their loved one, but also must see to it that the loved one's estate is distributed in accordance with his Last Will and Testament, or, absent such a document, the laws of New York State.

First, you should familiarize yourself with estate lingo. The following are common terms associated with estate administration: A person dies either "testate" or "intestate." If a person dies leaving a valid Last Will & Testament, he dies "testate." A person who makes a Last Will & Testament is known as a "testator." If he dies leaving no Will, then he dies "intestate." As detailed in my article *Should I Have A Will*, in our Spring 2007 newsletter, if an individual dies intestate, New York State law controls who may serve as representative of the decedent's estate and who receives the estate assets.

If the decedent dies testate, then the estate representative "probates" the Last Will & Testament at the Surrogate's Court in the county where the decedent was domiciled. The term "probate" means to prove a Will and administer the estate. The decedent's estate is represented by either an "executor" or "administrator." An executor is named by the testator to carry out the provisions in the testator's Will. An administrator is a person appointed by the Surrogate's Court to manage the assets and liabilities of an intestate decedent. All estate representatives are "fiduciaries." A fiduciary owes the duty of good faith, trust, confidence and candor in managing an estate. This duty is owed to not only the beneficiaries of the estate, but to any creditors as well.

Once the probate or administration process has begun, the estate passes through rigorous stages. You are first required to give notice to those persons who are interested in the estate so that they may have an opportunity to give their consent to probate of the decedent's Last Will and Testament (if any) or express their objection to the probate of the Will and/or appointment of estate representative. New York State law requires that all of the decedent's distributees be notified of the estate proceeding. A "distributee" is an individual designated by law to receive a share of the decedent's estate in the event that the decedent left no Last Will and Testament.

The process of probate or administration of the estate begins with filing the decedent's Last Will and Testament for probate (if any) and Petition with the Surrogate's Court in the county where the decedent resided. After the Surrogate's Court reviews the Petition and supporting documentation, and it determines everything is acceptable, it will issue Letters Testamentary or Letters of Administration to the estate representative. These Letters are evidence of your legal authority to act as a personal representative for the estate. Even if you are nominated Executor in the Last Will and Testament, you do not have the legal authority to act on behalf of the estate until the Court issues these Letters to you.

After you receive your appointment from the Court, you are responsible for identifying and marshalling assets of the estate, payment of taxes and payment and satisfaction of debts. You are responsible for the management of the assets, including their investment. You will need to consider the liquidity of estate assets since you are required to meet the cash requirements of the of the estate as they arise, including payment to creditors, payment of estate expenses and payment of taxes.

Six months after your appointment, you need to file a List of Assets and Inventory with the Surrogate's Court, which is an itemization of estate assets and their values.

You are responsible for determining the various tax return filings that may be required, and when they are due. The most common tax returns are final personal income tax returns for the decedent, income tax returns for the estate and estate tax returns if the estate's value exceeds the New York State and/or Federal exemption equivalent amount. As your attorneys, we will review the estate assets and estate income to determine which, if any, tax returns are necessary.

An estate proceeding must remain open for seven months following your appointment as estate representative. This time period exists to give creditors an opportunity to file claims against the estate. Claims can be presented after the seven months; however you as the fiduciary cannot be held personally liable to the creditor if you were unaware of the claim. It is your obligation to review any claims filed to determine their validity and promptly arrange for payment of all valid claims.

After debts, expenses and taxes have been paid, the next stage of the estate administration involves distribution of estate assets to the beneficiaries. The assets will either be distributed to the beneficiaries named in the decedent's Last Will & Testament, or absent a Will, the assets will be distributed to the distributees entitled to receive the decedent's estate pursuant to the provisions of New York State law. Distribution of assets may involve distributing assets in kind directly in satisfaction of a bequest or selling estate assets and distributing cash. The beneficiaries of the estate will, in return, sign a Receipt, Release and Discharge.

Dealing with your loved one's loss is often difficult enough. Our office is fully staffed to assist you through the entire estate administration and ease any burden you may have in dealing with this process.

Amy O'Hara, Esq. is an attorney with Littman Krooks LLP. Amy's practice focuses on estate planning, estate administration, elder law and special needs planning.

The People of the State of New York, No. 214216

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN:

**This is to certify that on the 25th day of JANUARY, 1989
LETTERS TESTAMENTARY OF THE Last Will and Testament OF**

EDMUND J. MC CORMICK

**late of the VILLAGE of DOBBS FERRY
were duly granted and issued by the Surrogate of the County of Westchester to
ALFRED S. HOWES, HERMAN MARKOWITZ, SUZANNE V. MC CORMICK, EDMUND J. MC CORMICK, JR., BANKERS
and that the same are still valid and in full force. TRUST COMPANY OF NEW YORK
Dated, Attested and Sealed JANUARY 31, 1989**

HON. EVANS V. BREWSTER, Surrogate of Westchester County.


Chief Clerk of the Surrogate's Court

File No.3522-19 68.

COPY

LETTERS TESTAMENTARY

The People of the State of New York

Know All Men by These Presents that at the City of White Plains, County of Westchester, on the25TH.... day of..... JANUARY,..... 19..... 89, before HONORABLE EVANS V. BREWSTER, Surrogate of our said County, the Last Will and Testament of

..... EDMUND J. MC CORMICK late of the VILLAGE of DOBBS FERRY in said County, deceased, was proved and

..... ALFRED S. JONES, HERMAN MARKOWITZ SUZANNE V. MC CORMICK, EDMUND J. MC CORMICK, JR. & BANKERS TRUST COMPANY OF NEW YORK.....

the executors named therein, having duly qualified according to law, ARE hereby authorized to administer the estate of said decedent pursuant to the provisions of the will, subject to the jurisdiction and supervision of this Court.

IN TESTIMONY WHEREOF, we have caused the seal of office of the Surrogate's Court of the County of Westchester to be hereunto affixed.

Witness: Honorable Evans V. Brewster, Surrogate of our said County, at the City of White Plains, the 25TH day of JANUARY, in the year of our Lord the thousand nine hundred and EIGHTY-NINE

[Handwritten signature]
Clerk

Notes.

Attention is called to the provisions of EPTL 11-16 and SCPA 170 which makes it a misdemeanor and a cause for removal for an Executor, Administrator, Trustee or Guardian to deposit or invest Estate funds in his individual account in time. All Estate funds must be deposited in the name of the Estate Administrator Trust

N^o 13052

All which we have caused by these presents to be exemplified, and the Seal of our said Surrogate's Court to be hereunto affixed.

Witness, HONORABLE EVANS V BREWSTER, Surrogate of the County of Westchester, the

10TH day of APRIL 19 89

Chief Clerk of the Surrogate's Court



I, EVANS V. BREWSTER, Surrogate of said County, do hereby certify that

PHILIP E. PUGSLEY

whose name is

subscribed to the preceding exemplification, is the Chief Clerk of the said Surrogate's Court of the County of Westchester, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said Surrogate's Court, and that the attestation thereof is in due form and according to the form of attestation used in this State.



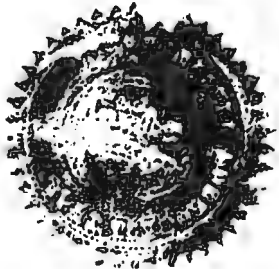
WITNESS, my hand and the Seal of said Surrogate's

Court this 10TH day of APRIL 19 89

Evans V. Brewster
Surrogate.

State of New York }
County of Westchester }

I, PHILIP E. PUGSLEY Chief Clerk of the Surrogate's Court of the County of Westchester, do hereby certify that HONORABLE EVANS V. BREWSTER whose name is subscribed to the preceding Certificate, is the Surrogate of the County of Westchester, duly elected, sworn and qualified, and that the signature of said Surrogate to said Certificate is genuine.



IN TESTIMONY WHEREOF, I have hereto set my

hand and affixed the Seal of the said Court, this 10TH day of APRIL 19 89

Chief Clerk of the Surrogate's Court

**SURROGATE'S COURT)
STATE OF NEW YORK)
COUNTY OF Westchester) ss.:CERTIFICATE OF APPOINTMENT OF FIDUCIARY**

IT IS HEREBY CERTIFIED that Letters in the Estate of the decedent named below have been granted by this Court as follows:

File No.: 3522-1988

NAME OF DECEDENT: EDMUND J. MCCORMICK

RESIDENCE OF DECEDENT: VILLAGE OF DOBBS FERRY

**REPRESENTATIVE(S) TO WHOM
LETTERS ARE ISSUED:**

**SUZANNE V. MCCORMICK,EDMUND J. MCCORMICK, JR.,
ALFRED S. HOWES, HERMAN MARKOWITZ AND
BANKERS TRUST COMPANY**

TYPE OF LETTERS ISSUED: LETTERS TESTAMENTARY

DATE OF LETTERS ISSUED: JANUARY 25, 1989

LIMITATIONS ON LETTERS: NONE

and such Letters are unrevoked and in full force as of this date.

Dated: November 5, 2001



**IN TESTIMONY WHEREOF, the seal of Westchester County
Surrogate's Court has been hereunto affixed.**

WITNESS HON. ANTHONY A. SCARPINO, JR., Surrogate.

John W. Kelly

Chief Clerk of the Surrogate's Court

**DO NOT ACCEPT THIS CERTIFICATE UNLESS THE RAISED SEAL OF THE COUNTY SURROGATE'S
COURT IS AFFIXED THEREON.**

(NOTE: S.C.P.A. 710 PROVIDES IN PART: "4. No fiduciary shall remove property of the estate from New York State without the prior approval of the Court and upon filing a bond if required by the Court").

Exhibit 6

SURROGATE'S COURT)
STATE OF NEW YORK)

COUNTY OF Westchester) SS.: CERTIFICATE OF APPOINTMENT OF FIDUCIARY

IT IS HEREBY CERTIFIED that Letters in the Estate of the decedent named below have been granted by this Court as follows:

File No.: 3522-1988

NAME OF DECEDENT: EDMUND J. MCCORMICK

RESIDENCE OF DECEDENT: VILLAGE OF DOBBS FERRY

REPRESENTATIVE(S) TO WHOM LETTERS ARE ISSUED: SUZANNE V. MCCORMICK, EDMUND J. MCCORMICK, JR. HERMAN MARKOWITZ AND BANKERS TRUST COMPANY

TYPE OF LETTERS ISSUED: LETTERS TESTAMENTARY

DATE OF LETTERS ISSUED: JANUARY 25, 1989

LIMITATIONS ON LETTERS: NONE

and such Letters are unrevoked and in full force as of this date.

Dated: April 20, 2004



IN TESTIMONY WHEREOF, the seal of Westchester County Surrogate's Court has been hereunto affixed.

WITNESS HON. ANTHONY A. SCARPINO, JR., Surrogate.

John W. Kelly
Chief Clerk of the Surrogate's Court

DO NOT ACCEPT THIS CERTIFICATE UNLESS THE RAISED SEAL OF THE COUNTY SURROGATE'S COURT IS AFFIXED THEREON.

(NOTE: S.C.P.A. 710 PROVIDES IN PART: "4. No fiduciary shall remove property of the estate from New York State without the prior approval of the Court and upon filing a bond if required by the Court".)

Exhibit 7

Original letters also included Alfred S. Haines who resigned on 1/23/92. John W. Kelly, Chief Clerk

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

Confidential and Privileged

Via Certified Mail

October 19, 2010

Ms. Brandi Goldenberg, Director
Deutsche Bank
Deutsche Bank Trust Company, N.A.
280 Park Avenue - 7th Floor
New York, New York 10017

RE: Estate of Edmund J. McCormick

Dear Ms. Goldenberg:

Since none of your responses to my letters will put me in direct contact with a 'Risk Manager' as I have repeatedly requested - in good faith I would like you to answer one basic question which you indicated you (or someone) personally can do.

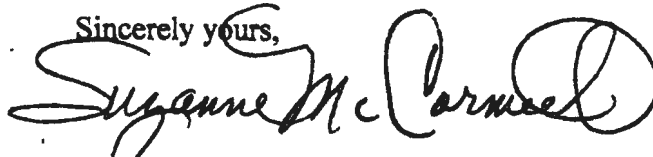
As you know, I'm a legal Executrix (widow) of my husband's Edmund J. McCormick's Estate.

Question - *Would you as the representative of the bank please provide me with proof that Bankers Trust Company/Deutsche Bank is a legal Executor of my husband, Edmund J. McCormick's Estate?*

Since so much time has lapsed in the process of my seeking good faith responses, I must again request a response within seven (7) business days upon receipt since this has become oppressive, occupying far too much time and effort to-date.

Thank-you in advance for your cooperation in this matter.

Sincerely yours,



Ms. Suzanne McCormick (Mrs. Edmund J. McCormick)
Legal Executrix of the Estate of Edmund J. McCormick
Widow, Main Beneficiary and Deutsche Bank Shareholder

SM/ms
Certified Mail #7006 0810 0006 0659 7708

Exhibit 8

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

Confidential and Privileged

Via Certified Mail

December 1, 2010

Ms. Brandi Goldenberg, Director
Deutsche Bank
Deutsche Bank Trust Company, N.A.
280 Park Avenue - 7th Floor
New York, New York 10017

RE: Estate of Edmund J. McCormick

Dear Ms. Goldenberg:

As you know, I have not received any response as requested in my letter to you dated October 19, 2010 (Enclosed) that you received on October 22, 2010. Further, as you are aware, I sought the answer to a saliently germane question that you assured me (in writing) that you were capable of answering yourself or locating someone at Deutsche Bank who would be qualified to provide me with the definitive answer. How do you justify your failure to respond?

When I received no communications whatsoever, I telephoned Deutsche Bank several times attempting to obtain the name of the head of the Trust Department. The operators refused to reveal the name of this person! Is the name of this individual a secret? I was asked if I had an account and to further exacerbate this matter I was instructed to contact the name contained on my account statement.

I hereby submit yet another question to you Ms. Goldenberg - What is the name of the head of the Trust Department (Deutsche Bank) at which you are employed and allegedly maintain accounts for the benefit of the McCormick Estate? Further, provide the contact mailing information for this person.

Ms. Goldenberg, you, as an attorney at law, know that you personally have a higher professional standard due to your superior knowledge of the law and intrinsic fiduciary responsibilities. Importantly, as you should know, if you don't already know, Bankers Trust Company (including but not limited to the Trust Department) became a convicted federal felon on July 26, 1999. I view your failure to have the basic courtesy to me as an affront and what I perceive as the furtherance of the bank's intransigence as well as compounding its bad faith - I object on a continuing basis. Despite the pattern and practices of the alleged responses to my prior letters (of May 21, 2010, June 12, 2010 & July 14, 2010) and the noted non-response to my letter of October 19, 2010 (Enclosed) - this correspondence continues in good faith. I thereby demand that you respond to this letter within three (3) business days upon receipt.

Sincerely yours,



Ms. Suzanne McCormick (Mrs. Edmund J. McCormick),
Legal Executrix of the Estate of Edmund J. McCormick,
Widow, Main Beneficiary and Deutsche Bank Shareholder

SM/ms

Enclosure

Certified Mail # 7010 0290 0000 1507 5441

Exhibit 9



Brandi Goldenberg
Director

Deutsche Bank Trust Company, N.A.
345 Park Avenue - 26th floor
New York, NY 10154

brandi.goldenberg@db.com

Direct 212-454-6992
Fax 212-454-3000

January 28, 2011

Mrs. Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Re: Estate of Edmund J. McCormick

Dear Mrs. McCormick:

In your letter dated October 19, 2010 you posed the following question:

"Would you as the representative of the bank please provide me with proof that Bankers Trust Company/Deutsche Bank is a legal Executor of my husband, Edmund J. McCormick's Estate?"

To comply with your request, we promptly requested from the Clerk of the Surrogate's Court a Certificate of Letters Testamentary which would list the current executors of your husband's estate. I note that you could have requested such a certificate directly.

Needless to say, the process of obtaining the Certificate took longer than anticipated. Accompanying this letter is a copy of the Certificate we just received. As you see, it shows that you, Herman Markowitz, Deutsche Bank Trust Co. Americas (formerly known as Bankers Trust Company of New York) and Edmund J. McCormick, Jr. currently are the executors of the Estate of Edmund J. McCormick.

Sincerely,

A handwritten signature in black ink, appearing to be 'Brandi Goldenberg', written over a horizontal line.

Brandi Goldenberg

Enc.

Exhibit 10

**Surrogate's Court of the State of New York
Westchester County
Certificate of Appointment of Executors**

File #: 1988-3522

IT IS HEREBY CERTIFIED that Letters in the estate of the Decedent named below have been granted by this court, as follows:

Name of Decedent:	Edmund J McCormick	Date of Death:	November 27, 1988
Domicile:	County of Westchester		
Fiduciary Appointed:	Suzanne V McCormick	Deutsche Bank Trust Co. Americas	
Mailing Address:	231 Clinton Ave Dobbs Ferry, NY 10522	200 Park Avenue New York NY 10017	
	Herman J. ... 35 Dogwood Lane Livingston, NY 10521	Edmund J McCormick Jr 714 West Shore Trail Sparta NJ 07871	

Type of Letters Issued: **AMENDED LETTERS TESTAMENTARY**
Letters Issued On: **January 23, 1992**
Limitations: **NONE**
and such Letters are unrevoked and in full force as of this date.

Dated: January 21, 2011

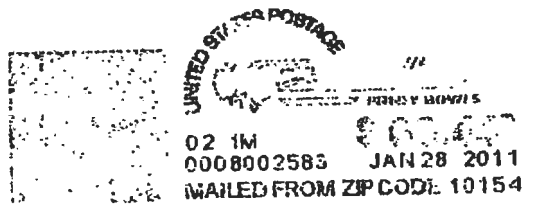
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Westchester County Surrogate's Court at White Plains, New York.

WITNESS, Hon. James D Pagones, Judge of the Westchester County Surrogate's Court.

Joseph M. Accetta

Joseph M Accetta, Chief Clerk
Westchester County Surrogate's Court

This Certificate is Not Valid Without the Raised Seal of the Westchester County Surrogate's Court



Mrs. Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

10522\$3003 C004





STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

RANDY A. DANIELS
SECRETARY OF STATE

SUZANNE MCCORMICK
231 CLINTON AVE
DOBBS FERRY NY 10522

APRIL 22, 2004

Dear Sir/Madam,

We have no record of a corporation filed in this office with the name BANKERS TRUST COMPANY.

Banking entities are filed with the NYS Department of Banking, not the Department of State.

You should contact CARMELA THAYER, NYS BANKING DEPARTMENT, SUITE 2310, CORNING TOWER, EMPIRE STATE PLAZA, ALBANY, NY 12223 - (518) 474-4967 for the information you are requesting.

We hope you find the above information to be of assistance. If we may provide any further information, please do not hesitate to contact us.

Sincerely,

DIVISION OF CORPORATIONS
(518) 473-2492

200404230082 59

Exhibit 11



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

RANDY A. DANIELS
SECRETARY OF STATE

SUZANNE MCCORMICK
231 CLINTON AVE
DOBBS FERRY NY 10522

APRIL 22, 2004

Dear Sir/Madam,

We have no record of a corporation filed in this office with the name BANKERS TRUST COMPANY OF NEW YORK.

Banking entities are filed with the NYS Department of Banking, not the Department of State.

You should contact CARMELA THAYER, NYS BANKING DEPARTMENT, SUITE 2310, CORNING TOWER, EMPIRE STATE PLAZA, ALBANY, NY 12223 - (518) 474-4967 for the information you are requesting.

We hope you find the above information to be of assistance. If we may provide any further information, please do not hesitate to contact us.

Sincerely,

DIVISION OF CORPORATIONS
(518) 473-2492

200404230082 59



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

RANDY A. DANIELS
SECRETARY OF STATE

SUZANNE MCCORMICK
231 CLINTON AVE
DOBBS FERRY NY 10522

APRIL 22, 2004

Dear Sir/Madam,

In response to your recent inquiry, our records reflect the following.

A Certificate of Incorporation of BT NEW YORK CORPORATION was filed on 05/12/1965. Its principal location is NEW YORK county.

A document was filed changing its name to BANKERS TRUST NEW YORK CORPORATION on 09/15/1967.

A document was filed changing its name to BANKERS TRUST CORPORATION on 04/23/1998.

A document was filed changing its name to DEUTSCHE BANK TRUST CORPORATION on 04/15/2002.

Status: Active

Biennial Statement: Current

Service of Process Address:
C/O C T CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NY 10011

Registered Agent (optional in NY):
C T CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NY 10011

Chief Executive Officer:
SETH H. WAUGH
60 WALL ST
NEW YORK, NY

Principal Business Location:
DEUTSCHE BANK TRUST CORPORATION
60 WALL ST
NEW YORK, NY 10005

Current Stock Information:
Stock Type Num. Shares Par Value/Share
Par Value 200 1.00
No Par Value 190100

There is no requirement that the names and addresses of officers or directors, other than the chief executive officer, be filed with this or any other state agency.


Sincerely,

DIVISION OF CORPORATIONS
(518) 473-2492

200404230082 59

96-1941-15
Keystone Agency, Inc.
1500 Walnut St.
Suite 301
Phila, PA 19102

Prepared by:


RICHARD B. COHN, ESQUIRE
Earp, Cohn, Leone & Pendery,
A Professional Corporation

DEED

This Deed is made on MARCH 18, 1996,

BETWEEN HERMAN MARKOWITZ, EDMUND J. McCORMICK, JR., and BANKERS TRUST COMPANY (formerly Bankers Trust Company of New York), CO-EXECUTORS OF THE ESTATE OF EDMUND J. McCORMICK, DECEASED, whose address is c/o Bankers Trust Company, 280 Park Avenue, New York, New York 10017, referred to as the Grantor,

AND COOPER RIVER MANOR INVESTORS, L.P., a Pennsylvania limited partnership, whose post office address is 716 Black Rock Road, Gladwyne, Pennsylvania 19035, referred to as the Grantee.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00). The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of Collingswood, Block No. 19.H, Lots 38, 61 and 65; and Block 19.B, Lots 1 and 31.

Property. The property consists of the land and all the buildings and structures on the land situate in the Borough of Collingswood, County of Camden, and State of New Jersey. The legal description of the property is:

ATTACHED TO AND MADE A PART HEREOF AS EXHIBIT A.

COMMONLY KNOWN as Cooper River Manor Apartments.

BEING the same lands and premises that were conveyed to Edmund J. McCormick by Deed from Helsic Realty, Inc., a New York corporation, dated August 17, 1972, and recorded in the Office of the Register of Deeds and Mortgages of Camden County on August 22, 1972, in Deed Book 3249, Page 336.

THE SAID EDMUND J. McCORMICK departed this life on November 27, 1988, in Westchester County, New York, leaving a Last Will and Testament dated November 20, 1985, duly admitted to probate in the Surrogate's Court, County of Westchester, New York, and in said Last Will and Testament did nominate, constitute and appoint Alfred S. Howes, Herman

DB4812-0111

Exhibit 12

Consideration \$ 4,500,000.00 - exempt code

County	4,500.00			
State	11,250.00	PAS	04/10/1996	
N.P.M.R.F.	6,825.00			
Total	22,575.00			

Markowitz, Suzanne V. McCormick, Edmund J. McCormick, Jr., and Bankers Trust Company of New York (no known as Banker's Trust Company) as Co-Executors of his Estate with full power of sale.

AND THE SAID ALFRED S. HOWES resigned as a Co-Executor of said Estate as of March 12, 1992.

AND THE SALE of the property described herein pursuant to and for the consideration set forth in this Deed has been approved by a majority of the remaining aforesaid Co-Executors of said Estate, as evidenced by the execution of this Deed by the Co-Executors so approving said sale.


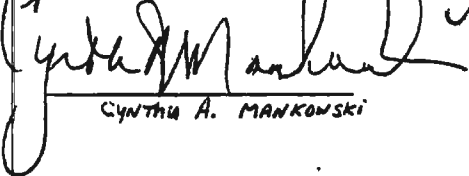
THIS DEED AND ALL COVENANTS AND WARRANTIES OF THE GRANTOR HEREUNDER ARE UNDER, SUBJECT AND SUBORDINATE TO that certain Mortgage and Security Agreement dated April 2, 1987, form Edmund J. McCormick to American Savings Bank, FSB, recorded on April 3, 1987, in the Office of the Register of Deeds ad Mortgages of Camden County in Mortgage Book 3130, Page 416, as amended or modified of record.

Promises by Grantor. The Grantor promises that (subject as aforesaid) the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that (subject as aforesaid) the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:

THE ESTATE OF EDMUND J. McCORMICK,
DECEASED


A. DARIANO

CYNTHIA A. MANKOWSKI

BY:  (Seal)
Herman Markowitz, Co-Executor

BY:  (Seal)
Edmund J. McCormick, Jr., Co-Executor

BY: BANKERS TRUST COMPANY,
Co-Executor

BY: 
Henry A. Zarzicki, Vice President


A. DARIANO

AHST

JAMES D. HUNT
ASSISTANT VICE PRESIDENT

DB4812-0112

923017

RECORDED-CAMDEN COUNTY

96 APR 10 PH 1:41

James Beach
CLERK

DEED

THE ESTATE OF EDMUND J. McCORMICK, DECEASED,

Grantor,

TO

~~ACCEPTED BY~~
~~AND TO THE JOINT TRUSTEES~~
~~OF THE~~
COOPER RIVER MANOR INVESTORS, L.P.,
~~BY~~

Grantee

Record and Return to:

Keystone Agency Inc.
1500 Walnut St.
Ste 301
Phila. Pa. 19102

301

Pat.
33.10
31.10
56.10

DB4812-0120

New York State
Department of Financial Services

I, REGINA A. STONE, Deputy Superintendent, Foreign and Wholesale Banks, Banking Division, New York State Department of Financial Services, DO HEREBY CERTIFY:

THAT, the records in the Office of the Superintendent of Financial Services indicate that DEUTSCHE BANK TRUST COMPANY AMERICAS is a corporation duly organized and existing under the laws of the State of New York as a trust company, pursuant to Article III of the Banking Law; and

THAT, the Organization Certificate of DEUTSCHE BANK TRUST COMPANY AMERICAS was filed in the Office of the Superintendent of Financial Services on March 5, 1903 under the title of BANKERS TRUST COMPANY, and such corporation was authorized to commence business on March 24, 1903; and

THAT, the following amendments to its Organization Certificate have been filed in the Office of the Superintendent of Financial Services as of the dates specified:

Certificate of Amendment of Certificate of Incorporation providing for an increase in number of directors - filed on January 14, 1905

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on August 4, 1909

Certificate of Amendment of Certificate of Incorporation providing for an increase in number of directors - filed on February 1, 1911

Certificate of Amendment of Certificate of Incorporation providing for an increase in number of directors - filed on June 17, 1911

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on August 8, 1911

Certificate of Amendment of Certificate of Incorporation providing for an increase in number of directors - filed on August 8, 1911

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on March 21, 1912

Certificate of Amendment of Certificate of Incorporation providing for a decrease in number of directors - filed on January 15, 1915

Certificate of Amendment of Certificate of Incorporation providing for a decrease in number of directors - filed on December 18, 1916

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on April 20, 1917

Certificate of Amendment of Certificate of Incorporation providing for an increase in number of directors - filed on April 20, 1917

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on December 28, 1918

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on December 4, 1919

Certificate of Amendment of Certificate of Incorporation providing for an increase in number of directors - filed January 15, 1926

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on June 12, 1928

Certificate of Amendment of Certificate of Incorporation providing for a change in shares - filed April 4, 1929

Certificate of Amendment of Certificate of Incorporation providing for a minimum and maximum number of directors - filed on January 11, 1934

Certificate of Extension to perpetual - filed on January 13, 1941

Certificate of Amendment of Certificate of Incorporation providing for a minimum and maximum number of directors - filed on January 13, 1941

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on December 11, 1944

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed January 30, 1953

Restated Certificate of Incorporation - filed November 6, 1953

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on April 8, 1955

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on February 1, 1960

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on July 14, 1960

Certificate of Amendment of Certificate of Incorporation providing for a change in shares - filed on September 30, 1960

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on January 26, 1962

Certificate of Amendment of Certificate of Incorporation providing for a change in shares - filed on September 9, 1963

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on February 7, 1964

Certificate of Amendment of Certificate of Incorporation providing for an increase in capital stock - filed on February 24, 1965

Certificate of Amendment of the Organization Certificate providing for a decrease in capital stock - filed January 24, 1967

Restated Organization Certificate - filed June 1, 1971

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed October 29, 1976

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed December 22, 1977

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed August 5, 1980

Restated Organization Certificate - filed July 1, 1982

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed December 27, 1984

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed September 18, 1986

Certificate of Amendment of the Organization Certificate providing for a minimum and maximum number of directors - filed January 22, 1990

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed June 28, 1990

Restated Organization Certificate - filed August 20, 1990

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed June 26, 1992

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed March 28, 1994

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed June 23, 1995

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed December 27, 1995

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed March 21, 1996

Certificate of Amendment of the Organization Certificate providing for an increase in capital stock - filed December 27, 1996

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock - filed June 27, 1997

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock – filed September 26, 1997

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock – filed December 29, 1997

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock – filed March 26, 1998

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock – filed June 23, 1998

Restated Organization Certificate - filed August 31, 1998

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock – filed September 25, 1998

Certificate of Amendment to the Organization Certificate providing for an increase in capital stock – filed December 18, 1998

Certificate of Amendment to the Organization Certificate providing for a change in the number of directors – filed September 3, 1999

Certificate of Amendment of the Organization Certificate providing for a change of name to DEUTSCHE BANK TRUST COMPANY AMERICAS – filed March 14, 2002; and

THAT, no amendments to its Restated Organization Certificate have been filed in the Office of the Superintendent of Financial Services except those set forth above; and

I DO FURTHER CERTIFY THAT, DEUTSCHE BANK TRUST COMPANY AMERICAS is validly existing as a banking organization with its principal office and place of business located at 60 Wall Street, New York, New York.

WITNESS, my hand and official seal of the Department of Financial Services at the City of New York, this 21st day of May in the Year two thousand and twelve.



Ragini A. Steer
Deputy Superintendent
Foreign and Wholesale Banks

New York State
Department of Financial Services

I, REGINA A. STONE, Deputy Superintendent, Foreign and Wholesale Banks, Banking Division, New York State Department of Financial Services, DO HEREBY CERTIFY:

THAT, the Organization Certificate of DEUTSCHE BANK TRUST COMPANY NEW YORK was filed in the Office of the Superintendent of Financial Services on April 10th 1995 under the title of DEUTSCHE BANK TRUST COMPANY, and such corporation was authorized on May 5th 1995; and

THAT, the following amendments to its Organization Certificate were filed in the office of the Superintendent of Financial Services as of the dates specified:

Certificate of Amendment of the Organization Certificate providing for a change of name to BANKERS TRUST COMPANY OF NEW YORK - filed September 7th 1999

Certificate of Amendment of the Organization Certificate providing for a change of location of the principal office to 280 Park Avenue, New York, New York - filed February 24th 2000

Certificate of Amendment of the Organization Certificate providing for a change of name to DEUTSCHE BANK TRUST COMPANY NEW YORK - filed March 14, 2002; and

THAT, no amendments to its Organization Certificate were filed in the office of the Superintendent of Financial Services except those set forth above; and

I DO FURTHER CERTIFY THAT, DEUTSCHE BANK TRUST COMPANY NEW YORK converted from state charter to federal charter on January 17, 2006 and is no longer operating under the supervision of this Department.

WITNESS, my hand and official seal of the Department of Financial Services at the City of New York, this 4th day of June in the Year two thousand and twelve.



Regina A. Stone
Deputy Superintendent
Foreign and Wholesale Banks

May 1, 2002

Dear Client,

In recent months we had indicated that our U.S. private banking business was migrating to the global Deutsche Bank brand. With the process completed, we are pleased to announce that effective immediately, Bankers Trust Private Banking, Deutsche Bank Group, will be known as Deutsche Bank Private Banking. Most of our underlying legal entities have been renamed accordingly, as you'll see in the list below.

These changes demonstrate that we are part of the Deutsche Bank family. As a valued client of a leading global private bank, you have access to the worldwide financial expertise and resources of Deutsche Bank. Among our many industry honors, *Euromoney* recently named Deutsche Bank the world's number one investment bank for the third year in a row.*

Our new name also signifies Deutsche Bank's commitment to expanding its U.S. private banking presence, which now includes the respected Scudder Private Investment Counsel. Just as the Private Bank has become a fully integrated part of Deutsche Bank's global operations, Deutsche Bank has strengthened its brand in the U.S., most notably with the "DB" listing on the New York Stock Exchange in October 2001. The company's shares now trade on all the world's major exchanges.

As we move forward under our new name, we have tried to ensure that the transition will be seamless to you. Please note that when you wire funds to the Private Bank, it is important to continue using your current wiring instructions until further notice.

You'll now see the Deutsche Bank Private Banking name on all statements and correspondence. There is one thing that will not change, though—our commitment to providing you the most strategic wealth management solutions with unparalleled personal service.

Legal Entities

Previous Name

Bankers Trust (Delaware)

Bankers Trust Company

Bankers Trust Company of California, N.A.

Bankers Trust Company Connecticut, Ltd.

Bankers Trust Company of New York

Bankers Trust Florida, N.A.

New Name

Deutsche Bank Trust Company Delaware

Deutsche Bank Trust Company Americas

Deutsche Bank National Trust Company

Deutsche Bank Trust Company Connecticut Ltd.

Deutsche Bank Trust Company New York

Deutsche Bank Florida, N.A.

Best Regards,



David A. Jones
Managing Director

Deutsche Bank



Private Banking

**Euromoney* "Poll of Polls," January 2002, 2001 and 2000

3. To the adjustment, settlement, satisfaction or discharge of any claim in favor of or against the decedent or his fiduciary.

4. To the performance of any act required in order to discharge the estate of a decedent from liability.

5. To an account in behalf of the decedent for the performance by him of any trust or other responsibility.

6. To the completion of any transfer made by a decedent or his fiduciary and to the execution of any instruments confirming any transfer so made.

7. To the appearance in and conduct of an action in which a decedent or his fiduciary is a necessary or proper party.

8. In the discretion of the court, to represent the estate in a transaction in which the acting fiduciary could not or should not act in his or her fiduciary capacity because of conflict of interest.

9. To commence and maintain any action or proceeding against the fiduciary, in his or her individual capacity, or against anyone else against whom the fiduciary fails or refuses to bring such a proceeding.

10. To any other purpose or act deemed by the court to be appropriate or necessary in respect of the affairs of the estate, the protection thereof or to the proper administration thereof.

In any case where limited and restrictive letters are granted the court may reduce the amount of security otherwise required or dispense therewith according to the circumstances.

Any letters may contain appropriate recitals restraining the holder from doing any such acts or exercising any such powers as may be specified therein until the further order of the court and upon the filing, if ordered, of satisfactory security. The issuance of limited or restrictive letters under this section may be in addition to the issuance of general letters or other, limited or restrictive letters.

§703. Letters evidence of authority; effect of appeal.

1. Subject to the provisions of the succeeding section, letters granted by the court are conclusive evidence of the authority of the persons to whom they are granted until the decree granting them is reversed or modified upon appeal or the letters are suspended, modified or revoked by the court granting them.

2. A certificate of letters testamentary or of administration duly issued by the clerk of the court shall be sufficient evidence, subject to the provisions of subdivision one hereof, of the existence of such letters and the identity of the fiduciary for all purposes for six months after the date of such issuance.

§704. Priority among different letters.

A person who applies in good faith therefor, and to whom letters are first issued from a court having jurisdiction to issue them, has exclusive authority under the letters until they are revoked. He is entitled to demand and recover from any person to whom letters are afterwards issued by any other surrogate's court the property in his hands belonging to the estate. But the acts of a person to whom letters were afterwards issued, done in good faith before notice of the letters first issued are valid and an action or special proceeding commenced by him may be continued by and in the name of the person or persons to whom the letters were first issued.

§705. Time, how reckoned upon successive letters.

Where it is prescribed by law that an act must or may be done within a specified time after letters are issued and successive or supplementary letters are issued upon the same estate, the time so specified must be reckoned from

CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:99-cr-00250-JGK-1

Case title: USA v. Bankers Trust Co.

Date Filed: 03/11/1999

Date Terminated: 07/26/1999

Assigned to: Judge John G. Koeltl

Defendant (1)**Bankers Trust Company**
TERMINATED: 07/27/1999represented by **Carey R. Dunne**
Davis, Polk & Wardwell
450 Lexington Avenue
New York , NY 10128
(212) 450-4000
TERMINATED: 07/27/1999
LEAD ATTORNEY
*Designation: Retained***Samuel W. Seymour**
Sullivan & Cromwell
125 Broad Street
New York , NY 10004-2498
(212) 558-4000
TERMINATED: 07/27/1999
LEAD ATTORNEY
*Designation: Retained***Pending Counts**18:1005.F BANK ENTRIES,
REPORTS AND TRANSACTIONS
(MAKING FALSE ENTRIES IN
BANK BOOKS AND RECORDS)
(1-3)**Disposition**The defendant shall pay a fine of
\$60,000,000.00.**Highest Offense Level (Opening)**

Felony

Terminated Counts

None

DispositionExhibit 17

Highest Offense Level (Terminated)

None

Complaints

None

Disposition**Plaintiff****United States of America**

represented by **Alex Young Kyong Oh**
Paul, Weiss, Rifkind, Wharton &
Garrison, LLP (DC)
2001 K Street, N.W.
5th Floor
Washington , DC 20006
(202) 223-7334
Fax: (202) 223-7474
Email: aoh@paulweiss.com
LEAD ATTORNEY

Date Filed	#	Docket Text
03/11/1999	1	WAIVER OF INDICTMENT by Bankers Trust Co. (bh) (Entered: 03/15/1999)
03/11/1999	2	SEALED INFORMATION as to Bankers Trust Co. (1) count(s) 1-3 (bh) (Entered: 03/15/1999)
03/11/1999	3	NOTICE of Appearance for Bankers Trust Co. by Attorney Samuel Seymour (bh) (Entered: 03/15/1999)
03/11/1999	4	NOTICE of Appearance for Bankers Trust Co. by Attorney Carey R. Dunne (bh) (Entered: 03/15/1999)
03/11/1999		Arraignment as to Bankers Trust Co. held. Deft pres w/atty Carey Dunne and Samuel Seymour pres, AUSA Alex Oh pres. Deft pleads not guilty Bankers Trust Co. (1) count(s) 1-3 before Magistrate Judge Michael H. Dolinger. Case assigned to Judge Koeltl for all purposes. (bh) (Entered: 03/15/1999)
03/11/1999		ORAL ORDER as to Bankers Trust Co. , Unsealing Information (Entered by Judge John G. Koeltl) (bh) (Entered: 03/16/1999)
03/11/1999		Change of Plea Hearing as to Bankers Trust Co. held. Defendant Bankers Trust Company present with attorneys Samuel Seymour and Cary Dunne. AUSA's Alex Oh and Andrea Weiss. Reporter Steven Griffing present. Defendant changes plea of not guilty and pleads guilty to count 1 through 3 of information. Sentence date set for 5/12/99 at 5:00 pm. (mr) (Entered: 03/17/1999)
03/11/1999		Change of Not Guilty Plea to Guilty Plea by Bankers Trust Co. Bankers Trust Co. (1) count(s) 1-3 (mr) (Entered: 03/17/1999)

03/11/1999		PLEA entered by Bankers Trust Co. . Court accepts plea. Guilty: Bankers Trust Co. (1) count(s) 1-3 (Terminated motions -) (mr) (Entered: 03/17/1999)
03/11/1999		Sentencing set for 5:00 5/12/99 for Bankers Trust Co. , Bankers Trust Co. (1) count(s) 1-3 (mr) (Entered: 03/17/1999)
05/13/1999	5	TRANSCRIPT of record of proceedings as to Bankers Trust Co. filed before Judge Koeltl for dates of 3/11/99. (sac) (Entered: 05/13/1999)
06/04/1999	6	ORDER as to Bankers Trust Co., The Court received the enclosed correspondence that was not copied to all parties. It is therefore attached. The action seeks a Government inquiry and no action is called for by the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 06/10/1999)
06/17/1999	7	ORDER as to Bankers Trust Co., The Court forwards to the parties the attached letter from Mr. Supinski because it is not clear that the letter was sent to both parties. No action is called for from the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 06/24/1999)
07/12/1999	8	ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 07/13/1999)
07/26/1999		Sentencing held Bankers Trust Co. (1) count(s) 1-3 (mr) (Entered: 07/29/1999)
07/27/1999	9	FILED JUDGMENT in a CRIMINAL CASE. Defendant present with attorney Samuel Seymour. The defendant Bankers Trust Co. (1) pleaded guilty to count (s) 1-3. The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. The defendant shall pay a fine of \$60,000,000.00. The fine shall be payable, together with interest, by thursday, 7/29/99 from the funds already in Escrow with the Federal Reserve Bank of New York. The Court imposes no restitution because fashioning and order of restitution will unnecessarily prolong and complicate the sentencing process. Statement of reasons attached. Judgment and Commitment issued to U.S. Marshal (Signed by Judge John G. Koeltl); [Docketed as a Judgment #99,1797 on 7/30/99.] (mr) Modified on 08/02/1999 (Entered: 07/29/1999)
07/28/1999	10	ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 07/29/1999)
07/31/1999		Payment of Fine in the amount of \$61,025,852.75 by Bankers Trust Co. Date received: 7/30/99 (bw) (Entered: 08/04/1999)
08/20/1999		Payment of Fine in the amount of \$60,600,000.00 by Bankers Trust Co. Date received: 7/30/99 (sl) (Entered: 08/20/1999)
09/10/1999	11	TRANSCRIPT of record of proceedings as to Bankers Trust Co. for dates of 7/26/99 before Judge Koeltl. (mr) (Entered: 09/10/1999)

10/06/1999	12	ORDER as to Bankers Trust Co. The Court forwards to the parties correspondence dated September 28, 1999. (Signed on 10/4/99 by Judge John G. Koeltl); Copies mailed. (bw) (Entered: 10/07/1999)
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Transaction Receipt			
10/21/2009 14:58:57			
PACER Login:	us5070	Client Code:	
Description:	Docket Report	Search Criteria:	1:99-cr-00250-JGK
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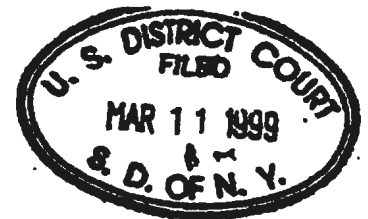
CERTIFIED AS A TRUE COPY ON

THIS DATE 10-21-09

BY Edward J. J. J. J.

Clerk
 Deputy

2/4/00
R.Y



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE KOELTL

UNITED STATES OF AMERICA

- v. -

BANKERS TRUST COMPANY,

INFORMATION
9:9 GRIM 0250

Defendant.

COUNTS ONE THROUGH THREE

(False Entries in Bank Books and Records)

The Grand Jury charges:

Introduction

1. At all times relevant to this information, the defendant BANKERS TRUST COMPANY ("BANKERS TRUST") was a bank chartered under the laws of the State of New York. BANKERS TRUST was headquartered in New York, New York, and provided a full range of financial and fiduciary services to institutional and individual customers through offices located throughout the United States. As a state member bank, BANKERS TRUST was subject to periodic examinations by the Federal Reserve Board ("Federal Reserve") and required to file periodic reports of its banking activities and financial condition with the Federal Reserve. BANKERS TRUST was a wholly-owned subsidiary of Bankers Trust New York Corporation ("Bankers Trust Corp."), a publicly-held bank holding company incorporated in New York, New York.

2. At all times relevant to this information, Client

MICROFILM
MAR 17 1999 7:00 AM

Processing Services, which was also sometimes known as Global Assets or Global Institutional Services ("CPS") was one of the organizational units within the defendant BANKERS TRUST, through which BANKERS TRUST provided processing, fiduciary and trust services to institutional and individual clients. CPS employed approximately 4,500 people, which constituted approximately one-third of BANKERS TRUST's total personnel. CPS generated a substantial portion of Bankers Trust Corp.'s income; for example, in 1995, CPS generated more than one-third of Bankers Trust Corp.'s income.

3. At all times relevant to this information, CPS was headed by one of the defendant BANKERS TRUST's senior Managing Directors who was also a Partner (the "Partner") of BANKERS TRUST. The Partner reported directly, at various times, to the President, Vice-Chairman, and the Chairman of Bankers Trust Corp. Another Managing Director of BANKERS TRUST was the Controller of CPS (the "Managing Director"). The Managing Director reported directly to the Partner, and at times, indirectly to the Chief Financial Officer of Bankers Trust Corp.

4. At all times relevant to this information, the Federal Reserve was responsible for, among other things, maintaining the safety and soundness of banks located in the United States. Among its other responsibilities, the Federal Reserve conducted periodic examinations of the defendant BANKERS TRUST's accounts, records, and financial condition in order to

evaluate BANKERS TRUST's safety and soundness.

5. At all times relevant to this Information, by law and by rules and regulations of the Federal Reserve, the defendant BANKERS TRUST was required to maintain in safekeeping all customer funds and to maintain accurate books and records of all customer transactions. BANKERS TRUST was not entitled to convert customer funds to its own use and benefit.

6. To ensure that the defendant BANKERS TRUST was complying with all rules and regulations of the Federal Reserve relating to, among others, banking and fiduciary services, examiners of the Federal Reserve periodically inspected BANKERS TRUST's books and records.

7. At all times relevant to this Information, the New York State Banking Department was responsible for supervising banking institutions licensed by the State of New York. Among its other responsibilities, the New York State Banking Department conducted examinations of the accounts, records, and financial condition of state banks.

Background

Unclaimed Funds in CPS

8. At all times relevant to this Information, the CPS area of the defendant BANKERS TRUST generated revenues by providing, among other things, custodial, trust and processing services for institutional and individual customers. CPS was subdivided into various business units, including: (i) the

Corporate Trust and Agency Group ("CTAG"), which provided, among other things, paying agent and fiduciary services to issuers of securities; (ii) the Retirement Services Group ("RSG"), which provided, among other things, custodial, trust administration and asset management services to employee benefit and pension plans of corporations, governments and their agencies; and (iii) Global Securities Services ("GSS"), which provided, among other things, custodial, processing and clearing services to purchasers and sellers of securities. The fees that CTAG, RSG and GSS earned from providing these services were a significant component of the overall income earned by BANKERS TRUST.

9. From time to time, the custodial, trust and processing services performed in CPS generated certain credits and unclaimed customer funds ("unclaimed funds") as reflected on the defendant BANKERS TRUST's books and records. For example, in CTAG, BANKERS TRUST, as paying agent for issuers of securities, issued checks to securities holders that reflected distributions of dividends and interests earned on such securities. From time to time, securities holders did not cash these checks ("CTAG checks"). Similarly, in RSG, as administrator of various employee benefit and pension plans, BANKERS TRUST issued benefit checks on behalf of such plans to plan beneficiaries. From time to time, these benefit checks went uncashed ("RSG benefit checks"). Similarly, in GSS, BANKERS TRUST from time to time was overpaid for the clearing, settling and agent bank functions that

it performed relating to securities transactions. The overpayments ("GSS credits") generated in connection with these securities transactions remained on BANKERS TRUST's books and records as credits. BANKERS TRUST was required to maintain such GSS credits in suspense or trust accounts until such time as their rightful ownership was determined.

10. At all times relevant to this Information, as set forth in more detail in paragraphs 11 and 12 below, the defendant BANKERS TRUST was not permitted to convert such unclaimed funds - including CTAG checks, RSG benefit checks and GSS credits - to BANKERS TRUST's own use and benefit. This was so even where it appeared that certain customers might never come forward to claim their money.

BANKERS TRUST's Obligations Under
State Abandoned Property Laws

11. At all times relevant to this Information, under New York State law, the defendant BANKERS TRUST was required under certain circumstances to escheat to New York State unclaimed funds, including funds comprising CTAG checks, RSG benefit checks and GSS credits. Specifically, where, after three years, (1) the rightful owner of unclaimed funds, including funds underlying CTAG checks, RSG benefit checks and GSS credits had not asserted a claim to such funds, and (2) the requirement of New York State jurisdiction over such unclaimed funds were met, BANKERS TRUST was obligated by New York law to escheat such unclaimed funds to New York as abandoned property.

12. At all times relevant to this Information, where the requirements of New York State jurisdiction over unclaimed funds were not met, the defendant BANKERS TRUST was required by various states' laws and by its own stated policies to maintain such unclaimed funds on its books and records as liabilities. This requirement recognized the possibility of future claims to these funds either by customers or by another state or states that demonstrated their entitlement to such funds as abandoned property. BANKERS TRUST was obligated by law and by rules and regulations of the Federal Reserve and the New York State Banking Department to maintain in safekeeping all unclaimed funds and to maintain accurate books and records of unclaimed funds. Certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, received legal advice that unclaimed funds could not be converted, or taken into BANKERS TRUST's own income.

13. To ensure that the defendant BANKERS TRUST was properly escheating unclaimed funds to the State of New York, auditors from the State Office of Unclaimed Funds periodically audited BANKERS TRUST's books and records relating to abandoned property.

The Pressure to Meet
Financial Targets in 1994 and 1995

14. In 1994 and 1995, the defendant BANKERS TRUST's income declined significantly, due to a number of negative market developments. In order to compensate for this decline in income

in 1994 and 1995 and also to reduce expenses, the management of BANKERS TRUST put significant pressure on all areas of its business, including CPS, to generate additional revenues and to lower expenses. In response to this pressure, the Partner and the Managing Director, in turn, put significant pressure on CPS officers and employees to meet revenue goals established by BANKERS TRUST for CPS for the years 1994 and 1995.

The Unlawful Diversion of
Unclaimed Funds to Meet Financial Targets

15. From in or about January 1994 through in or about March 1996, the defendant BANKERS TRUST, the Partner, the Managing Director and certain other officers and employees of BANKERS TRUST in CPS, participated in an unlawful scheme to convert unclaimed funds -- which belonged to customers and/or were escheatable in due course to various states other than New York -- for the purpose of meeting revenue and expense targets imposed by BANKERS TRUST. These officers and employees also sought to conceal their fraudulent enhancement of BANKERS TRUST's financial performance from the public, outside auditors and regulators by making false and deceptive entries in BANKERS TRUST's books and records.

16. From in or about January 1994 to in or about September 1995, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, transferred approximately \$4.27 million in outstanding CTAG checks from liabilities accounts on BANKERS TRUST's books and

records and transferred the funds to BANKERS TRUST's income and reserve accounts. These funds were used by these officers and employees to falsely enhance BANKERS TRUST's revenues and offset BANKERS TRUST's expenses.

17. In or about May 1995, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, transferred approximately \$1.65 million in outstanding RSG benefit checks from liabilities accounts on BANKERS TRUST's books and records to BANKERS TRUST's reserve accounts. These funds were used by these officers and employees to falsely enhance BANKERS TRUST's revenues and offset BANKERS TRUST's expenses.

18. From in or about January 1994 to in or about September 1995, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, transferred approximately \$11.92 million in GSS credits from trust or suspense accounts on BANKERS TRUST's books and records to BANKERS TRUST's income and reserve accounts. These funds were used by these officers and employees to falsely enhance BANKERS TRUST's revenues and offset BANKERS TRUST's expenses.

19. From in or about May 1995 to in or about March 1996, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, engaged in a search for additional unclaimed funds to be transferred from various liabilities, trust or suspense accounts on BANKERS

TRUST's books and records to BANKERS TRUST's income and reserve accounts, to be used to falsely enhance BANKERS TRUST's revenues and to offset BANKERS TRUST's expenses.

20. At all times relevant to this information, the defendant BANKERS TRUST and certain of its officers and employees, including the Partner and the Managing Director: (i) falsely enhanced BANKERS TRUST's financial performance by applying converted unclaimed funds to BANKERS TRUST's income or expense accounts; and (ii) concealed the true source of the funds enhancing BANKERS TRUST's financial performance from the public, outside auditors and regulatory examiners by referring to these misappropriated unclaimed funds on the records supplied to outside auditors and regulatory examiners in misleading and false terms, such as "reserves," "reclassified" funds or "movement of funds."

Means and Methods of the
Unlawful Diversion Of Unclaimed Funds

21. Among the means and methods used by the defendant BANKERS TRUST and certain of its officers and employees, including the Partner and the Managing Director, to implement the unlawful scheme to misappropriate unclaimed funds, were the following:

a. Certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, devised a scheme to unlawfully divert unclaimed funds in various accounts, including customer accounts, and to use these funds for BANKERS

TRUST's benefit.

b. Certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, first identified unclaimed funds in various accounts, deeming these funds "opportunities," for falsely enhancing BANKERS TRUST's income.

c. Once unclaimed funds were identified as "opportunities," certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, unlawfully extinguished the unclaimed funds from BANKERS TRUST's books and records as liabilities and transferred the funds to BANKERS TRUST's income or expense accounts. These income and expense accounts ordinarily were funded by BANKERS TRUST's own income.

d. From time to time, certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, unlawfully extinguished the unclaimed funds from BANKERS TRUST's books and records as liabilities and transferred the funds to BANKERS TRUST's reserve accounts, where the funds became commingled with BANKERS TRUST's own funds.

e. Once unclaimed funds were transferred to BANKERS TRUST'S reserve accounts, the reserve accounts were used as a "slush fund" by certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, to supplement income or to offset expenses as needed at the end of a financial reporting period, thereby falsely enhancing BANKERS

TRUST's financial results for that period.

f. In order to conceal the fraudulent enhancement of BANKERS TRUST's financial performance through the unlawful conversion of unclaimed funds from the public, outside auditors and regulatory examiners, certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, made or caused to be made certain false and misleading entries in BANKERS TRUST's books and records, including: (i) the labeling of transfers of unclaimed funds from liabilities, trust or suspense accounts to BANKERS TRUST's income, expense and reserve accounts as "movement of funds" and "reclass" of funds; and (ii) the labeling of unclaimed funds unlawfully transferred to BANKERS TRUST's reserve accounts generally as "reserve" funds, rather than as outstanding liabilities.

The Statutory Charge

22. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendant BANKERS TRUST, a state member bank, unlawfully, wilfully and knowingly did make, and cause to be made, the corresponding false entries set forth below in the books, reports, and statements of BANKERS TRUST with the intent to injure and defraud its customers and bodies politic, and to deceive the Board of Governors of the Federal Reserve System and its agents and examiners appointed to examine the affairs of BANKERS TRUST:

<u>COUNT</u>	<u>APPROX. DATE</u>	<u>FRAUDULENT ENTRY</u>
ONE	June 30, 1994	Automated Journal Ticket reflecting the cancellation of approximately \$2.4 million in outstanding CTAG checks as "movement of funds."
TWO	May 24, 1995	Journal Ticket identifying the cancellation and movement to a BANKERS TRUST reserve account of \$946,610.48 in outstanding RSO checks as "OCB Reclass."
THREE	February 9, 1996	Reserve account schedule reflecting \$3.9 million in GSS credits as "beginning reserve balance."

(Title 18, United States Code, Sections 1005 and 2.)

Mary Jo White

 MARY JO WHITE
 United States Attorney

3/11/79 DEFT BARNES TRUST COMPANY PRES. SAMUEL SEYMOR & CAREY DUNNE.
AUSA'S ALEX ON X ANDREA WEISS, REAFFER STEVEN BRITTING.
DEFT BARNES TRUST COMPANY OFFERS PLEA OF NOT GUILTY
AND PLEADS GUILTY TO COUNTS ONE THROUGH THREE OF
INFORMATION. SENTENCE DATE 3/17/79 AT 5:00PM.
INFORMATION OBTAINED UNSEALED.

- JUDGE ROBERT MR

7/28/79 DEFT BARNES TRUST COMPANY PRES. SAMUEL SEYMOR & CAREY DUNNE.

AUSA ALEX ON. REAFFER ANDREA WEISS.

DEFT BARNES TRUST COMPANY FINED

\$60,000,000, WITH INTEREST, PAYABLE BY

7/27/79. FINE IS CONTINGENT ON ALL 3 COUNTS.

- JUDGE ROBERT MR

Form No. USA-33a-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -
BANKERS TRUST COMPANY,
Defendant.

INFORMATION

99 Cr.

(Title 18, United States Code,
Sections 1005 and 2.)

MARY JO WHITE
United States Attorney.

3/11/99
Filed Inf + waiver of Ind. AUSA oh
per R.A. Bates that C.O. per N/indy
Care R. Hume + Samuel Seymour Post
prop. N/6 to Inf. This case is assigned
to Judge Koehl R all papers. M.J. White

ADJ



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Place
New York, New York 10037

March 11, 1999

BY HAND

Samuel W. Seymour, Esq.
Sullivan & Cromwell
125 Broad Street
New York, New York 10004

Carey R. Dunne, Esq.
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017

Re: United States v. Bankers Trust Company
99 Cr. ___

Dear Messrs. Seymour and Dunne:

1. On the understandings specified below, the Office of the United States Attorney for the Southern District of New York (the "Office") will accept a guilty plea from BANKERS TRUST COMPANY ("BANKERS TRUST") to Counts One through Three of the above-referenced Information. Counts One through Three each charge BANKERS TRUST with making false entries in bank books and records, in violation of Title 18, United States Code, Section 1005.

2. It is understood and agreed that BANKERS TRUST's allocation at the time of the plea shall include, *in haec verba*, the statement included as Exhibit A hereto, the accuracy of which BANKERS TRUST hereby affirms. BANKERS TRUST agrees that the total amount of unclaimed funds unlawfully recorded as BANKERS TRUST's income or reserves, including an unlawful transfer of \$1.3 million in outstanding customer checks in 1989, is \$19.1 million. Any additional statements by BANKERS TRUST shall be consistent in all material respects with the statements contained in Exhibit A.

3. This Agreement is contingent upon the sentencing judge accepting this Agreement. Should the Court reject the terms of this Agreement, this Agreement shall be void, and neither this Office nor BANKERS TRUST shall be bound by its terms. It is further understood and agreed that the parties will request that the Court accept the terms of this

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Cary R. Dunne, Esq.

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Agreement pursuant to Fed. R. Crim. P. 11(e)(1)(C), 11(e)(2), 11(e)(3), and Sentencing Guidelines § 6B1.2(c).

4. The parties have reached a stipulation concerning the appropriate amount of the criminal fine in this case pursuant to United States Sentencing Guidelines §§ 8C2.3, 8C2.4, 8C2.5, 8C2.6 and 8C2.8. This Office and BANKERS TRUST therefore stipulate pursuant to Sentencing Guidelines § 6B1.4 that Sixty Million dollars (\$60,000,000) is the appropriate sentence and fine in this case.

5. It is understood and agreed that the Court: (i) will impose a total criminal fine of Sixty Million dollars (\$60,000,000) pursuant to Fed. R. Crim. P. 11(e)(1)(C); and (ii) will retain jurisdiction to enforce the terms and conditions of this Agreement. The parties understand that this Agreement reflects the particular facts of this case and is not intended as precedent for other cases.

6. It is understood and agreed that BANKERS TRUST shall pay the sum of Sixty Million dollars (\$60,000,000) to the Federal Reserve Bank of New York as escrow agent within 48 hours of the entry of its guilty plea, which shall then be wire transferred to the United States, as directed by this Office, on the date of imposition of sentence. All of this amount shall constitute a criminal penalty payable to the United States. It is further understood and agreed that, thereafter, under no circumstances shall BANKERS TRUST be entitled to a refund of any monies paid pursuant to this Agreement. BANKERS TRUST shall also pay a special assessment of \$200 per count at sentencing.

7. The parties agree to sentencing without preparation of a Presentence Report. It is further understood and agreed that the parties will seek a finding from the Court pursuant to Fed. R. Crim. P. 32(b)(1) and the policy statement set forth in Sentencing Guidelines § 6A1.1 that the information in the record, including the allocation of BANKERS TRUST attached hereto as Exhibit A, is sufficient to enable the Court to exercise its sentencing authority meaningfully under Title 18, United States Code, Section 3553, and that the preparation of a Presentence Report pursuant to Fed. R. Crim. P. 32 is not necessary. BANKERS TRUST has requested, and the Office agrees to, a two-month adjournment of sentencing in order to permit other regulatory agencies to evaluate BANKERS TRUST's request for regulatory approval to continue to engage in certain businesses. The parties also agree that sentencing will proceed on or before May 12, 1999, unless the Government consents to a further extension.

8. It is understood that BANKERS TRUST will continue to cooperate in connection with the Government's investigation of this and related matters. This cooperation requires that BANKERS TRUST (a) shall truthfully and completely disclose, to the extent permitted by law, all information with respect to the activities of BANKERS TRUST and its officers and employees concerning all matters about which this Office inquires of BANKERS

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TRUST, which information can be used for any purpose; (b) shall cooperate fully with this Office, the Federal Bureau of Investigation, the Federal Reserve Bank of New York ("Federal Reserve") and any other government agency designated by this Office; (c) shall develop a plan within 30 days from the date of this plea, which shall be subject to the approval of the Federal Reserve, to make full restitution of all moneys derived from the conduct described in paragraph 9 below; (d) shall submit to the Federal Reserve for its review and approval, within 30 days of the date of this plea, the written internal compliance procedures which the bank already has implemented for the strengthening and maintenance of its records, systems, and internal audit and controls, in order to ensure that such misconduct will not recur in the future; (e) shall attend all meetings at which this Office requests BANKERS TRUST officers' and employees' presence; (f) shall provide to this Office, upon request, any document, record, or other tangible evidence relating to matters about which this Office or any designated law enforcement agency inquires of BANKERS TRUST, to the extent permitted by law; (g) shall truthfully testify before the grand jury and at any trial and other court proceeding with respect to any matters about which this Office may request BANKERS TRUST officers' and employees' testimony; (h) shall bring to this Office's attention all crimes which BANKERS TRUST has committed, all criminal proceedings, investigations, or prosecutions in which BANKERS TRUST has been or is a subject, target or party, and all administrative proceedings in which BANKERS TRUST is likely to be charged for misconduct; and (i) shall commit no further crimes whatsoever. Moreover, any assistance BANKERS TRUST may provide under this Agreement to federal criminal investigators shall be pursuant to the specific instructions and control of this Office and designated investigators.

9. It is understood that this Office cannot, and does not, agree not to prosecute BANKERS TRUST for criminal tax violations. However, if BANKERS TRUST fully complies with the understandings specified in this Agreement, no testimony or other information given by BANKERS TRUST (or any other information directly or indirectly derived therefrom) will be used against BANKERS TRUST in any criminal tax prosecution. Moreover, if BANKERS TRUST fully complies with the understandings specified in this Agreement, neither BANKERS TRUST nor any of its corporate affiliates will be further prosecuted criminally by this Office for any crimes, except for criminal tax violations, concerning (A) the activities, from 1986 to 1996, of BANKERS TRUST officers and employees in the Client Processing Services division relating to: (i) the wrongful conversion of unclaimed customer funds and/or funds that were escheatable in due course to various states as abandoned property; or (ii) the false and misleading recording of such unclaimed funds in BANKERS TRUST's books and records as income or reserves; or (B) any statements that were made or any conduct that occurred in the course of this Office's and the Federal Reserve's investigation in 1996, to the extent that BANKERS TRUST has disclosed the specified activities in paragraph 9(A) and 9(B) to this Office as of the date of this Agreement. This Agreement does not provide any protection against prosecution for any crimes except as set forth above and does not provide any protection for any natural persons against prosecution for any crimes, including those specified in this paragraph.

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Carey R. Dunne, Esq.

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10. It is understood and agreed that the Office shall be free to prosecute BANKERS TRUST or any of its corporate affiliates for the conduct set forth in paragraph 9 above: (i) should the Court reject this Agreement, including the stipulated fine of Sixty Million dollars (\$60,000,000); (ii) should the allocation of BANKERS TRUST fail to incorporate, *in haec verba*, Exhibit A; (iii) should the Court not accept the plea of guilty of BANKERS TRUST; (iv) should any motion to withdraw the plea of guilty, or to attack collaterally a conviction based upon such a plea, be granted and become final; (v) should BANKERS TRUST fail to pay the criminal fine in accordance with this Agreement; or (vi) should BANKERS TRUST violate any other provision of this Agreement. BANKERS TRUST agrees to waive any and all defenses based upon the passage of time that might exist with respect to the matters enumerated in paragraph 9, including, but not limited to, the statute of limitations with respect to any such prosecutions that are not time-barred on the date this Agreement is signed by BANKERS TRUST.

11. It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office. This Office will, however, bring the cooperation of BANKERS TRUST to the attention of other prosecuting offices, if requested by BANKERS TRUST.

12. It is understood that, should BANKERS TRUST commit any further crimes or should it be determined that BANKERS TRUST has given false, incomplete, or misleading testimony or information, or should BANKERS TRUST otherwise violate any provision of this Agreement, BANKERS TRUST shall thereafter be subject to prosecution for any federal criminal violation of which this Office has knowledge, including obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against BANKERS TRUST, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

13. It is understood that in the event that it is determined that BANKERS TRUST has committed any further crimes, given false, incomplete, or misleading testimony or information, or otherwise violated any provision of this Agreement, (a) all statements made by BANKERS TRUST and its officers and employees to this Office or other designated law enforcement agents, and any testimony given by BANKERS TRUST and its officers and employees before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against BANKERS TRUST; and (b) BANKERS TRUST shall assert no claim under the United States Constitution, any statute, Rule 11(c)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is

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Carey R. Dunne, Esq.

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the intent of this Agreement to waive all rights in the foregoing respects.

14. This Agreement supersedes any prior understandings, promises, or conditions between this Office and BANKERS TRUST. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

MARY JO WHITE
United States Attorney

By: *Alex Young*
ALEX YOUNG, JR.
Assistant United States Attorney
(212) 637-2218

APPROVED: *Mark F. Pomerantz*
MARK F. POMERANTZ, JR.
Chief, Criminal Division

AGREED AND CONSENTED TO:
BANKERS TRUST COMPANY

David D. Brown, IV
By: DAVID D. BROWN, IV
Pursuant to Authority Conveyed
By Resolution of the Board of
Directors of BANKERS TRUST COMPANY

March 11, 1999
DATE

APPROVED:

Samuel W. Seymour, Esq.
SAMUEL W. SEYMOUR, ESQ.
Counsel to BANKERS TRUST

DATE

APPROVED: *Carey R. Dunne*
CAREY R. DUNNE, ESQ.
Counsel to BANKERS TRUST

3/11/99
DATE

EXHIBIT A

*Rule 11(e)(6) Plea Discussions***Bankers Trust Company Allocation**

Bankers Trust Company, which I will refer to as "the Bank," has authorized me to enter a plea of guilty to three counts of 18 U.S.C. § 1005 on the Bank's behalf. The Bank is a "member bank" within the meaning of 18 U.S.C. § 1005.

The transactions that are the subject of the Information occurred in what was called the Client Processing Services ("CPS") business of the Bank. CPS was an organizational unit of the Bank that provided processing, fiduciary and trust services to the clients and customers of the Bank. At any given time, there is a small percentage of the funds processed by CPS that are unclaimed or whose rightful owners are unidentified.

From January 1994 through March 1996, a group of executives and employees of the Bank, who are no longer employed by the Bank, unlawfully, willfully and knowingly caused a number of false entries to be made in the books and records of the Bank with the intent of concealing the nature and source of transactions from, and to deceive, the Bank's auditors and regulators, including the Federal Reserve Bank of New York. Their purpose in doing so was to falsely enhance the financial performance of CPS, which had the effect of making the Bank's financial performance appear better than it actually was. In certain instances, these individuals acted contrary to the express legal advice of the Bank's outside counsel. Although this group of employees included the senior manager and the controller of the business unit, the Bank believes that a small number of CPS employees were involved in the knowing falsification of the Bank's records.

As I will describe in more detail in a moment, the falsification of the Bank's

records arose in connection with improper transfers of unclaimed funds to reserve accounts and to the Bank's income. These funds may with the passage of time become abandoned property subject to the escheatment laws of the state of New York and other states. The false entries that are the subject of the Information relate to certain of these funds that belonged to customers or other third parties or were escheatable. This conduct occurred, in part, in the Southern District of New York.

The transactions described in the Information occurred in three business units within CPS. The first such business was the Corporate Trust and Agency Group ("CTAG"), which provides paying agent services to the issuers of securities. In the course of this business, CTAG issued checks to securities holders. Some checks were never presented for payment by the payee. The second unit was the Retirement Services Group ("RSG"), which provided a wide variety of services to employee benefit plans, including employee benefit payment services. In the course of this business, RSG issued checks to plan beneficiaries. Some checks were never presented for payment by the payee. The third unit, Global Securities Services ("GSS"), provided custodial services to a wide range of customers. In the course of this business, GSS received credits on behalf of customer accounts, in its capacity as a domestic or global custodian of assets. Some credits in GSS were unidentified or irreconcilable to corresponding customer accounts.

With respect to Count One of the Information, on or about June 30, 1994, employees of CPS unlawfully, willfully and knowingly caused approximately \$2.4 million of aged outstanding checks issued by CTAG as paying agent to be transferred from liability accounts to the Bank's income and reserves. These transactions were falsely recorded as "movement of funds," causing the books and records of the Bank to be

inaccurate. The employees who recorded these entries did so with the intent to conceal the nature and source of the transferred funds from the Bank's auditors and regulators.

With respect to Count Two, in or about May 1995, employees of CPS unlawfully, willfully and knowingly caused approximately \$946,610.48 of aged outstanding checks from the ESG business to be transferred from outstanding liability accounts to a reserve account of the Bank. These transactions were falsely recorded as "OCS reclass," causing the books and records of the Bank to be inaccurate. The employees who recorded these entries did so with the intent to conceal the nature and source of the transferred funds from the Bank's auditors and regulators.

With respect to Count Three, on or about February 9, 1996, employees of CPS unlawfully, willfully and knowingly caused approximately \$3.9 million of aged credits arising from transactions in the GSS business to be transferred from outstanding liability or suspense accounts to reserve accounts. These transactions were falsely recorded as "reserve funds" or "beginning reserve balance," causing the books and records of the Bank to be inaccurate. The employees who recorded these entries did so with the intent to conceal the nature and source of the transferred funds from the Bank's auditors and regulators.

In moving various funds to Bank reserves, the CPS employees acted with the purpose and expectation that these funds would later be used to falsely enhance the financial performance of CPS, which had the effect of falsely enhancing the Bank's financial performance.

The total amount of unclaimed funds unlawfully recorded as the Bank's income or reserves from 1994 through early 1996, including an unlawful transfer of \$1.3

million in outstanding customer checks in 1989, is \$19.1 million.

The Bank acknowledges the violations of U.S. criminal law to which it is pleading guilty. The Bank accepts responsibility for these transactions and the conduct of its employees. It deeply regrets that its former employees engaged in such transactions. In doing so, they violated the Bank's policies and procedures as well as the Bank's commitment to its clients. As the Bank learned of these transactions beginning in March 1996, it promptly reported the conduct to the Department of Justice, the Federal Reserve Bank of New York and the New York State Banking Department. The Bank also, with the assistance of outside counsel and Arthur Andersen, LLP, conducted a complete forensic review of the transactions involved. The Bank has cooperated with the government's investigation into these matters and will continue to cooperate under the Cooperation and Plea Agreement executed by the Bank today. The Bank has reversed all of the transactions and has, or is in the process of, compensating any customers or third parties affected by these transactions and complying with its escheatment obligations relating to these funds.

When the Bank discovered and reported these transactions beginning in March 1996, it substantially changed the management of Global Institutional Services, which includes the former CPS businesses, and adopted a comprehensive system of controls designed to prevent recurrence of the conduct underlying the transactions. These controls include new policies and procedures regarding the handling of unclaimed property. The Bank has implemented a thorough training program for all the employees in Global Institutional Services regarding these new policies and procedures.

To put this conduct in context, the Bank's earnings were \$615 million in

1994 and \$215 million in 1995. In 1994-1995, CPS employed over 4,500 people. In 1995, CPS administered approximately \$422 billion of debt and held \$1.4 trillion dollars in assets under custody. On a daily basis, approximately \$400 billion was processed by the CPS unit. The Bank takes very seriously its responsibility to preserve and protect the assets of its clients, and the vast majority of funds processed by CPS were handled correctly and in accordance with our clients' instructions.

March 11, 1999

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v.

BANKERS TRUST COMPANY,

Defendant.

99 Cr. 250 (JGK)

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Sentence

July 26, 1999
4:15 p.m.

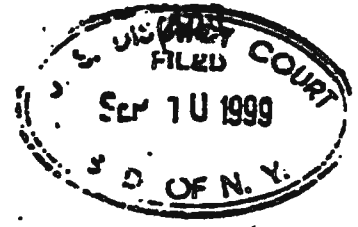
Before:

HON. JOHN G. KOELTL,

District Judge

APPEARANCES

MARY JO WHITE
United States Attorney for the
Southern District of New York
ALEX YOUNG K. OH
Assistant United States Attorney



SULLIVAN & CROWELL
Attorneys for Defendant

SAMUEL W. SEYMOUR

- and -

DAVIS POLK & WARDELL
Attorneys for Defendant

CAREY R. DUNNE

- and -

TROLAND S. LINK,
General Counsel

ALSO PRESENT:
DAVID D. BROWN

Exhibit 20

Sentence

1 (In open court)

2 THE DEPUTY CLERK: United States v. Bankers Trust
3 Company.

4 All parties please state who they are for the record.

5 MS. OH: Alex Oh for the government.

6 MR. SEYMOUR: For defendant Bankers Trust Company, my
7 name is Samuel Seymour of Sullivan & Cromwell, and I will have
8 the others introduce themselves.

9 MR. LINK: I am Troland Link, general counsel of
10 Deutschebank North America, and since last week general
11 counsel to Bankers Trust Company.

12 MR. BROWN: I am David Brown here for Bankers Trust
13 Company.

14 MR. DUNNE: Carey Dunne from the law firm of Davis
15 Polk & Wardwell, also counsel to Bankers Trust Company.

16 THE COURT: Good afternoon all.

17 For purposes of the sentencing, who is the
18 representative of Bankers Trust?

19 MR. SEYMOUR: That would be Mr. Link, your Honor.

20 THE COURT: Mr. Link?

21 MR. SEYMOUR: Yes.

22 THE COURT: Mr. Link, could you spell your last name?

23 MR. LINK: Yes, your Honor. It is L-I-N-K.

24 THE COURT: Thank you, sir.

25 Has Mr. Link been authorized by the bank to speak on

1 behalf of the bank for purposes of sentencing?

2 MR. SEYMOUR: Yes, he has, your Honor.

3 THE COURT: I have reviewed the cooperation agreement
4 dated March 11, 1999, the government's letter in connection
5 with sentencing dated July 15, 1999, and the defense letter
6 dated July 21, 1999.

7 I have a couple of initial questions before I call on
8 counsel and the parties to ask what they would like to tell me
9 in connection with sentence.

10 First, in the government letter dated July 15, 1999,
11 in footnote 4, the base offense level for the offense pursuant
12 to Section 8C2.3(a) and Section 2F1.1 is listed as 27. It was
13 not clear to me why that was true or whether it was a typo and
14 was intended to be 21.

15 MS. OH: Let me see if I can walk the court through
16 that. That was a base offense level of 2F1.1(a) of six, and
17 add 15 because the loss amount exceeded 10 million but was
18 less than 20 million, two levels for more than minimal
19 planning, and then 2F1.1(b) (6) (A), if the offense
20 substantially jeopardized the safety and soundness of a
21 financial institution, so we added an additional four points,
22 which brings us to 27.

23 THE COURT: 19.1 million substantially jeopardized
24 the safety and soundness of Bankers Trust?

25 MS. OH: Your Honor, not just the impact of the

Sentence

1 offense itself but the consequent results of a guilty plea in
2 this court. The government's position is that we would have
3 advocated that the additional four points is necessary.
4 However, the court need not reach that issue because we have
5 worked with the gross gain to the defendant from the offense.

6 THE COURT: No, I know that, and I appreciate that.
7 There would be a question -- the answer to which I don't
8 know -- whether 7B would be more appropriate, plainly affected
9 a financial institution, and the defendant derived more than
10 \$1 million in gross receipts from the offense. The issue
11 would be whether the financial institution could be the
12 defendant under 7B. Certainly 7B doesn't require any showing
13 that it jeopardized the safety and soundness of a financial
14 institution.

15 MS. OH: That is correct, your Honor.

16 THE COURT: But you are right, it doesn't make a
17 difference because ultimately the parties turn to the 19.1
18 million being the appropriate base fine because it is higher
19 than the fines that are otherwise provided for with an offense
20 level of 27 or less.

21 Does the defendant want to be heard on that issue at
22 all?

23 MR. SEYMOUR: No, your Honor. We agree with the
24 government that under any calculation of the base offense
25 level it is still 2.4(a)(2) that controls because the 19.1

1 million is larger.

2 THE COURT: The second issue that simply wasn't clear
3 to me from the correspondence is that the parties' positions
4 are with respect to restitution. I appreciate that the
5 defendant has entered into an agreement with respect to
6 restitution and has adopted a plan of restitution which has
7 been approved by the Federal Reserve Bank of New York,
8 approved by the U.S. Attorney's Office, but what was not clear
9 to me is whether for purposes of sentence there is any
10 agreement between the parties with respect to whether the
11 judgment should include an order of restitution.

12 MS. OR: Your Honor, unless the court is dissatisfied
13 with the language submitted by the government, the
14 government's position is that a restitution order is certainly
15 not required by statute in this case and that it is not
16 necessary given the fact that the plan with respect to the
17 remaining money has been approved by the Fed, the bank's
18 regulatory agency.

19 THE COURT: So the government doesn't believe that
20 the judgment in the case should include an order of
21 restitution if the court is satisfied, based upon the
22 submissions of the parties, of the fact that the bank has made
23 the substantial restitution already and that the remainder of
24 the restitution is provided for in the plan that has been
25 approved by the Federal Reserve Bank of New York.

MS. OR: That's correct, your Honor.

THE COURT: To avoid any question, it would appear to me that it is appropriate for the court to find that it is unnecessary to order any restitution in this case because fashioning an order of restitution would unnecessarily complicate and delay sentencing, and the purposes of sentencing are not served by any order of restitution in this case because of the provision of restitution that the bank has already made and the additional restitution that the bank has agreed to with the Federal Reserve Bank of New York.

Does the defendant want to be heard on that?

MR. SYMOUR: We agree with that finding, your Honor.

THE COURT: I will so find, and I will not include an order of restitution in the sentence.

The next question is, the parties have both submitted that a fine of \$60 million is appropriate. It wasn't clear to me from the parties' submissions what the parties' views were with respect to the timing of the payment of the fine.

MS. OR: Your Honor, the \$60 million fine has already been placed into escrow by the defendant, I believe, as of March 11, 1999. The Federal Reserve Bank of New York, which is acting as the escrow agent, will be making the wire transfer under the court's direction. We only ask that it be allowed until this Thursday to make the necessary wire transfers.

1 THE COURT: So the judgment would read that the
2 defendant is ordered to pay a fine of \$60 million from the
3 funds already in escrow with the Federal Reserve Bank of New
4 York by Thursday, July 29.

5 MS. OH: Your Honor, if I could just point out, it
6 should be \$60 million and interest in escrow.

7 THE COURT: All right. Has that money already been
8 accruing interest with the Federal Reserve?

9 MS. OH: Yes, your Honor.

10 THE COURT: Do you agree with that, Mr. Seymour?

11 MR. SEYMOUR: Yes, that is all agreeable to the bank,
12 your Honor.

13 THE COURT: Mr. Seymour, I will listen to defense
14 counsel for anything that defense counsel wishes to tell me in
15 connection with sentence, anything at all that you'd like to
16 tell me.

17 MR. SEYMOUR: Only this, your Honor: Our position is
18 set out in the letter of July 21 that your Honor has referred
19 to. We ask that your Honor impose the sentence of \$60 million
20 set out in the plea agreement. Other than that, the bank
21 chooses to rest on statements previously made at the time the
22 plea was entered on March 11th.

23 THE COURT: All right. Mr. Link, I will recognize
24 you as the representative of the bank for anything that you
25 would like to tell me in connection with sentence, anything at

1 all you'd like to tell me.

2 MR. LINK: No, your Honor, I have nothing to add to
3 what is in the record, the previous statements that have been
4 made.

5 THE COURT: Ms. Oh, I will recognize you for anything
6 that the government would like to tell me in connection with
7 sentence, anything at all that the government would like to
8 tell me.

9 MS. OH: Your Honor, the government's position is
10 fully set forth in the July 15, 1999 letter. We would only
11 ask that the court make a finding on the record that pursuant
12 to Rule 32(b) (1) of the Federal Rules of Criminal Procedure
13 that the information contained in this record is sufficient
14 for the court to impose judgment and that no presentence
15 report is necessary.

16 THE COURT: I find that there is sufficient
17 information in the record to enable the court to exercise its
18 sentencing authority meaningfully under 18 U.S.C., Section
19 3553. I have reviewed the cooperation agreement and its
20 attachment explaining the offense. That information, together
21 with the submissions by both the defendant and the government,
22 have provided the court sufficient information to sentence, in
23 light of the factors set forth in 18 U.S.C., Section 3553,
24 without a presentence report. Both parties agree that the
25 court has sufficient information and the court finds that it

has sufficient information to sentence without a presentence report. I further find that a fine of \$60 million is the appropriate sentence in this case.

Based on the information provided by the government, the appropriate fine range under the guidelines is \$38.2 million to \$76.4 million. Under the defendant's calculations, the fine range is between \$30.56 million and \$61.12 million.

It is unnecessary to resolve the difference between the two sets of calculations because, in any event, the fine of \$60 million is the appropriate fine. It is approximately three times the gain to Bankers Trust from the offenses. It reflects the seriousness of the offense, including the substantial amount of money involved and the involvement of high-level personnel. It reflects the seriousness of the false records that were involved in the case and the duration of the scheme. It also reflects the need for deterrence. On the other hand, it takes into account the exposure of the bank to collateral consequences. It also takes into account the bank's cooperation in the investigation and the remedial measures taken by the bank.

I will not enter an order of restitution in this case because fashioning an order of restitution would unnecessarily complicate and delay sentencing and it is unnecessary for the purposes of sentencing in view of the restitution already made by the bank and the plan for further restitution approved by

Sentence

1 the Federal Reserve Bank of New York.

2 I have already listened to all of the parties in
3 connection with sentence:

4 Is there anything further that any of the parties
5 wish to tell me before I actually impose sentence?

6 Mr. Seymour.

7 MR. SEYMOUR: No, your Honor.

8 THE COURT: Mr. Link.

9 MR. LINK: No, your Honor.

10 THE COURT: Ms. Oh.

11 MS. OH: No, your Honor.

12 THE COURT: Pursuant to the Sentencing Reform Act of
13 1984, it is the judgment of this court that the defendant,
14 Bankers Trust, is hereby ordered to pay a fine of \$60 million,
15 plus interest. The fine is payable from the funds already in
16 escrow with the Federal Reserve Bank of New York and is to be
17 paid by Thursday, July 29, 1999.

18 It further ordered that the defendant shall pay to
19 the United States a special assessment of \$600, which shall be
20 due immediately. That is, \$200 on each count.

21 The fine of \$60 million is imposed concurrently on
22 each of the three counts of the information.

23 I have already explained the reasons for the
24 sentence.

25 Does either counsel know of any legal reason why the

1 sentence should not be imposed as I have so stated it?

2 MS. OH: No, your Honor.

3 MR. SEYMOUR: The defendant does not, your Honor.

4 THE COURT: I will order the sentence to be imposed
5 as I have so stated it for all the reasons that I have
6 explained.

7 Mr. Link, Bankers Trust has the right to appeal the
8 sentence. If the bank cannot pay the cost of appeal, the bank
9 has the right to apply for leave to appeal in forma pauperis.
10 If you request, the clerk will prepare and file a notice of
11 appeal on your behalf immediately.

12 Do you understand?

13 MR. LINK: I understand, your Honor.

14 THE COURT: The correspondence indicates that despite
15 the right of the defendant to appeal and despite the provision
16 of the rule that requires that I instruct the defendant as to
17 the right to appeal, the defendant in this case, according to
18 the defense counsel's letter to the court, has waived the
19 right to appeal.

20 Is that correct, Mr. Seymour?

21 MR. SEYMOUR: That is correct, your Honor.

22 THE COURT: Do either counsel want me to make any
23 further inquiry about that?

24 MS. OH: No, your Honor.

25 MR. SEYMOUR: I don't think it is required, your

Sentence

1 Honor.

2 THE COURT: Anything further?

3 MS. OH: Your Honor, the government requests that its
4 July 15, 1999 letter be made part of the record.

5 MR. SEYMOUR: No objection, your Honor.

6 THE COURT: I assume the defendant's July 21 letter
7 also, then.

8 MR. SEYMOUR: We so request, your Honor.

9 THE COURT: All right. There is no presentence
10 report, so there is no inquiry that I will make about the
11 presentence report, but I will see that both the July 15th and
12 July 21st letters are filed.

13 Anything further?

14 MS. OH: No, your Honor. Thank you.

15 MR. SEYMOUR: No, your Honor. Thank you.

16 THE COURT: Good afternoon.

17 cOo

18

19

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25

I (We) hereby certify that the foregoing is a true and accurate transcript, to the best of my (our) skill and ability, from my (our) stenographic notes of this proceeding.

James M. Parison

Official Court Reporter
U.S. District Court

CERTIFIED

JAMES M. PARISON

James M. Parison



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE
97 CENTRAL AVENUE
ALBANY, NEW YORK 12206

ROBERT DENNISON
CHAIRMAN

ANTHONY G. ELLIS, II
EXECUTIVE DIRECTOR

July 30, 2004

Ms. Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Re: Request for Information – Bankers Trust Co. Certificate of Relief

Dear Ms. McCormick:

Provided herewith are true copies of the documents you requested from the Division and Board of Parole that have been maintained in connection with the Certificate of Relief that was granted by the New York State Board of Parole to the Bankers Trust Company regarding its conviction in the United States District Court for the Southern District of New York.

Please note that information contained in the October 28, 1999 memorandum from James Murray to Martin Cirincione has been redacted as that information is exempt from public disclosure pursuant to section 87(2)(g) of the New York Public Officers Law. In addition, the names of individuals listed on a document entitled "CPS disciplinary Review" have been redacted as that information is exempt from public disclosure pursuant to section 87(2)(b) of the New York Public Officers Law.

In light of the delay in providing you with the requested materials, I am waiving the fee customarily charged by the Division when providing documents under the Freedom of Information Law. Thank you for your attention in this matter.

Very truly yours,


Terrence X. Tracy
Counsel

encls.

Exhibit 21

**STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE**

May 18, 1999

From the desk of:
Martin Cirincione

Marty

**CONFIDENTIAL
NOT TO BE DISTRIBUTED**

To: File

Re: Bankers Trust

Telephone conversation with Alex Oh, who returned the call after being referred to me by Alan Kaufman. I explained to Ms. Oh that an application for a Certificate of Relief from Civil Disabilities had been applied for from Bankers Trust by Sullivan & Cromwell with Edward Hammock as Counsel. Ms. Oh informed me that she knew that Sullivan & Cromwell were going to make this application but had no further contact from them about it. I stressed to her that the Division of Parole considered the opinion of the U.S. Attorney to be of great importance in regard to our determination as to whether a Certificate of Relief should be granted. I also informed her that this was a unique circumstance with the application being from a corporation and the application being requested to be granted simultaneous to the sentence. I told her that I would be sending to her copies of correspondence between Sullivan & Cromwell and the Division of Parole.

I also asked her if she would mind if I informed Hammock the next time he called that I had been in contact with her as U.S. Attorney about the application. She stated that this would be fine but she did not want me in any way to indicate that we were going to hold up proceedings for the certificate based upon whether the U.S. Attorney recommended or did not recommend it. I stressed to her that I would only inform Hammock that I had been in contact with the U.S. Attorney, and I also stressed that although the input from the U.S. Attorney would be very important, it would be the Board which, of course, would make the final determination.

Dictated immediately following phone call with Ms. Alex Oh.

Exhibit 24



BRION D. TRAVIS
CHAIRMAN

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE
97 CENTRAL AVENUE
ALBANY, NEW YORK 12206

JOSEPH J. GAWLOSKI
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Martin Cirincione, Executive Director
FROM: James V. Murray, Director, Executive Clemency Bureau
RE: Bankers Trust - Certificate of Relief From Disabilities Request
DATE: July 22, 1999

On Thursday (7/22/99) morning, I telephoned the office of the U.S. Attorney for the Southern District of NY (212-637-2218) to ascertain which Judge had the Bankers Trust matter so that we might solicit a recommendation on Bankers Trust's application for a Certificate of Relief From Disabilities.

The person who answered the phone was Ms. Alex Oh, the Assistant U.S. Attorney who is handling the federal prosecution. I identified myself and the purpose of my call. The Judge is John Koeltl and his number in chambers is 212-805-0222.

I mentioned that we would also be sending a letter to her office to confirm a reported "no position" from her office. She said it was true and that it was office practice of taking no position. She stated that her office would be willing to respond to any factual questions on their case. She mentioned that she had had a conversation with Samuel Seymour (one of the signatures for Bankers Trust of the 3/11/99 preplea agreement) and told him that her office took no position. She further volunteered that Mr. Seymour had informed her that the Board of Parole had rejected the request for a Certificate of Relief. I informed her that the matter was still under review and that we might have some questions concerning the case. At that point, she informed me that the matter was calendared for Monday, 7/26/99. Surprised, I asked about requests for adjournments. She said nothing was pending and because it had been adjourned a number of times, she expected it to go forward.

I volunteered that because the applicant was a corporate entity that possibly they had chosen another way of dealing with not having a Certificate of Relief. She agreed, and neither of us speculated further what that might be.

Ms. Oh's fax number is 212-637-2452.

JVM:crc

Exhibit 26



BRION D. TRAVIS
CHAIRMAN

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE
97 CENTRAL AVENUE
ALBANY, NEW YORK 12206

MARTIN CIRINCIONE
EXECUTIVE DIRECTOR

August 13, 1999

Edward Hammock, Esq.
1975 Linden Boulevard
Suite 205
Elmont, NY 11003

Dear Mr. Hammock:

I am in receipt of your letter dated August 6 regarding Bankers Trust application for a Certificate of Relief From Disabilities.

As we continue to review the application, we find that we are in need of further information that will assist us in making this determination. Attached please find a list of questions and information being sought by this office.

Thank you for the copy of the US Attorney's Office official press release. It will be added to our file.

Sincerely,



Martin Cirincione
Executive Director

Exhibit 27

- 1) The name and title of all employees or individuals working on behalf of Bankers Trust that were involved in the improper activity.
- 2) The name and title of all employees or individuals working on behalf of Bankers Trust that have been indicted in connection with this activity.
- 3) Is Bankers Trust assisting any past or current employee with attorney fees or legal representation for their defense against criminal prosecution which resulted from their participation in the activity in question.
- 4) Who was the outside counsel that advised officers of Bankers Trust that the transfer of funds was illegal. When did he make this disclosure and to whom.
- 5) How much of the 19.1 million dollars that was improperly converted to Bank income came from trust accounts.
- 6) What steps has the bank taken to ensure that an incident such as this does not reoccur.
- 7) What is the number of estates that Bankers Trust is currently acting as executor for in New York State, other states or countries and their total value.
- 8) What is the total value of the estates that Bankers Trust is currently acting as trustee of investments, and lifetime trust in New York State, other states and countries.
- 9) In the past ten years, have any of the past or present officers or Board Members of Bankers Trust been convicted of a misdemeanor or felony in the United States or any foreign country.

SULLIVAN & CROMWELL

N.Y.S. DIVISION OF PAROLE
RECEIVED

NEW YORK TELEPHONE: (212) 558-4000
TELEX: 55884 (INTERNATIONAL) 2786 (DOMESTIC)
CABLE ADDRESS: LADYCOURT, NEW YORK
FACSIMILE: (212) 558-3555

SEP 24 1999 25 *Broad Street, New York 10004-2498*

Exec. Director's Office

1701 PENNSYLVANIA AVE., N.W., WASHINGTON, D.C. 20006-5505
444 SOUTH FLOWER STREET, LOS ANGELES 90071-2901
8, PLACE VENDÔME, 75001 PARIS
ST. OLAVE'S HOUSE, 24 IRONMONGER LANE, LONDON EC3V 5EY
101 COLLINS STREET, MELBOURNE 3000
2-1, MARUNOUCHI 1-CHOME, CHIYODA-KU, TOKYO 100
NINE QUEEN'S ROAD, CENTRAL, HONG KONG
OBERLINDAU 54-55, 60323 FRANKFURT AM MAIN

September 21, 1999

Martin Cirincione
Executive Director
Executive Clemency Bureau
New York State Division of Parole
97 Central Street
Albany, New York 12206

Re: Application of Bankers Trust Company
for Certificate of Relief from Disabilities

Dear Mr. Cirincione:

In response to your August 13 letter, I attach the response of Bankers Trust Company ("Bankers Trust" or the "Bank") to the nine questions posed by your letter. We thank you for the opportunity to provide further information to assist your office in its determination.

In addition to the information contained in the attached responses, we would like to address any concerns that the Division of Parole might have regarding the effect that the Bank's mishandling of unclaimed funds had on the Bank's clients. The funds involved were unclaimed, aged credits on the Bank's books, and included uncashed official and employee benefit checks and unclaimed dividend and interest amounts. In most cases, an owner of the unclaimed funds could not be identified. The Bank's internal investigation did not uncover any evidence that any of the testamentary trusts for which the Bank acts as trustee or the estates for which the Bank acts as executor were affected by the improper handling of the unclaimed funds, and the Bank has no reason to believe that any of these estates or trusts had been victimized by the Bank in the past.

Exhibit 28

Martin Cirincione

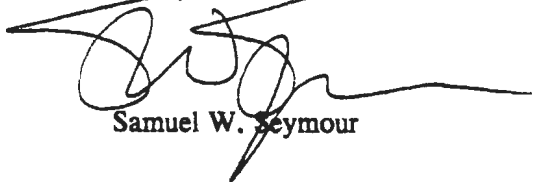
-2-

In all cases, the mishandling of the funds has been corrected. Where the mishandled funds were subject to escheatment, they have been paid over to state abandoned property authorities. Where an owner of the funds could be identified, the funds have been restored. A small percentage of funds remain in special accounts awaiting disposition pursuant to a comprehensive restitution plan instituted by the Bank with Federal Reserve approval.

Finally, the Bank has not been advised that it is the target of any other prosecution, either in or out of New York State. The Bank looks forward to a final resolution of this matter in the near future.

The Bank is pleased to answer any further questions or to provide additional information concerning its application. Kindly contact Edward R. Hammock (516-285-4141) or Samuel W. Seymour (212-558-3156).

Sincerely yours,



Samuel W. Seymour

(Enclosures)

cc: Martin Grant, Federal Reserve Bank

Responses to Questions from
New York State Division of Parole

- 1) The nature of the improper activity identified by Bankers Trust Company was such that numerous employees were involved with the transactions used to carry out the improper activity. Bankers Trust identified forty-three employees whose level of involvement in improper activity led the Bank to consider them for possible disciplinary action by the Bank. The disciplinary action taken by the Bank ranged from resignation to training regarding proper Bank procedures. Attached is a chart that identifies the employees considered for such discipline, the job title and supervisor of each employee, the disciplinary action taken and the reason for such action.

None of these employees are currently employed by the Bank, except for Gerard Callaghan and Timothy Keaney, who were considered during the disciplinary review but were not recommended for disciplinary action.

- 2) The following individuals have been indicted by a federal grand jury:

BJ Kingdon, Managing Director and Partner
Kenneth Goglia, Managing Director
Harvey Plante, Vice President.

None of these individuals is currently employed by the Bank.

- 3) Bankers Trust is paying for the legal representation by independent counsel for approximately 43 current and former Bankers Trust employees in connection with the U.S. Attorney's Office of the Southern District of New York and the Federal Reserve Bank of New York's investigation of the improper activity that occurred in the Client Processing Services division of the Bank. Under Article 5.1 of the Bank's by-laws, the Bank is required to indemnify officers of the Bank for legal representation related to civil or criminal matters stemming from matters within the scope of employment of the employee. The Bank is required to advance legal fees to officers, provided that the employee executes an undertaking to return the fees if it is adjudicated that they were not acting in good faith. The Bank was paying for the legal representation of Messrs. Kingdon, Goglia and Plante. The Bank discontinued the advancement of such fees upon the institution of administrative actions against these individuals by the Federal Reserve Bank, as required by federal banking regulations.
- 4) Bernard Karol, of Carter, Ledyard & Milburn, advised the Client Processing Services division regarding escheat issues beginning in 1990.

In May 1990, Mr. Karol, then of Hannoch Weisman, wrote a memo addressed to Bankers Trust regarding Bankers Trust New Jersey Limited, a new trust subsidiary

of the Bank, analyzing the applicable escheat law. In a footnote of the memo, Mr. Karol states that the holder of abandoned property "must also ensure that his possession of the unclaimed property is not deemed to be a conversion." We are unable to document exactly who at Bankers Trust received this memo in 1990. From information gathered in our interview process we believe that any and all of the following parties may have been recipients: Ken Goglia, Clifton D'Amato, Michael Moran, and Jeremy Sussman and Jean Pennington, in the legal department.

Our investigation revealed that there was a July 1990 meeting between Mr. Karol, Clifton D'Amato, Jeremy Sussman, and Kenneth Goglia, Jim Conlan, and Elliot Cohen regarding various topics related to abandoned property. One of the topics that was discussed at the meeting appears to have been whether the Corporate Trust and Agency Group could take dormant balances into income. Hand written notes of the meeting suggest that Mr. Karol advised that such funds could not be taken into income and would result in conversion of the property.

- 5) The funds comprising the \$19.1 million improperly converted to Bank income came from three separate operating units within the CPS business: the Corporate Trust and Agency Group, the Retirement Services Group and the Global Security Services Group.

\$4.27 million came from the Corporate Trust and Agency Group. CTAG holds funds either as a paying agent on behalf of an issuer or as trustee for the beneficiaries of the funds, depending on the particular terms of the customer agreement. Because the Bank can no longer identify the particular source of these funds or the applicable customer agreement, it cannot determine what percentage of these funds were held as paying agent vs. trustee.

\$1.65 million came from the Retirement Services Group. These funds were generated through the employee benefit check paying service offered by the Bank. The Bank generally acted as Trustee for the employee benefit plans for which it provided this service.

\$11.92 million came from the Global Security Services Group. The Bank generally holds funds in this division in its capacity as a custodian not a trustee.

- 6) The Bank has undertaken remedial measures in order to ensure that an incident such as this does not recur. In particular, the Bank brought in a new senior management staff to run the CPS business; it developed a new abandoned property policy and appointed an Abandoned Property Officer to oversee its compliance; with the assistance of an outside consultant, the Bank developed new procedures regarding the handling of unidentified credits and new accounting procedures which have been reviewed by the Federal Reserve Bank as part of the Bank's Cooperation and Plea Agreement; the Bank revised the internal auditing

procedures for this business unit to specifically audit for this type of conduct; and the Bank instituted a training program for all employees of CPS regarding accounting procedures, abandoned property and business ethics.

- 7) Bankers Trust currently acts as executor to 70 estates, 43 of which are New York estates. The combined market value of all of the estates is approximately \$173,485,000, of which \$58,660,700 represents the New York estates.
- 8) Bankers Trust currently acts as trustee of 1,396 testamentary trusts, with a combined market value of approximately \$2,735,750,000, and 1,367 inter vivos trusts, with a combined market value of approximately \$3,132,777,7000. Of the testamentary trusts, 980 are New York trusts and have a combined value of approximately \$1,754,333,472. Of the inter vivos trusts, 1,004 are New York trusts and have a combined value of approximately \$1,894,436,400.
- 9) The Bank currently employs approximately 4,000 individuals. To the best of the Bank's knowledge, no employee of the Bank has been convicted of a misdemeanor or felony in the past ten years in the United States or any foreign country for conduct related to his or her employment with the Bank. The Bank is not in a position to learn of any convictions of its employees that are unrelated to their employment.

Sullivan/Cronwell:

No involvement of trust/fiduciary functions

low level officers and a senior manager

no personal gain

BT actively sought accounts for out

"potential harm to clients"

Allocation

admits theft of 19.1 million dollars
violates Fed law, NY State law, escheatment laws of other states

Pre-Plea

Waive pre-sentence report
Criminal tax viol. still intact
Doesn't bind other states or local prosecutors

CONTRA (just based on app's submission)

No input from US Atty's office, etc.
yet [FBI, bank regulators, other defs
now or targeted]

Indict yes trust unit involved (p.2)
Agreed allocation as trust unit involved
Letter from NY State Regulator yes trust
unit involved

Indict Partner who reported to Pres. (p.2)

Indict personal gain - used as expense
account and shell fund to supplement
their income (p.2)

Indict actively sought accounts for
out (p.2)

Does not contradict contrary to the expressed
intent of the bank's outside
counsel 12/10/06

prudent man: BT advises clients now
BT is absolutely liable for any harm

Options For Bank ?

- 1) Advise each effected client on their upcoming inability to perform.
- 2) "Sell" or otherwise divest themselves of the unit.
 - to other bank or appropriate institution
 - place account with others, and keep a "fee" for placement services
- 3) Petition Surrogate Court to appoint another party (individual, bank, consortium).
- 4) Try Article 78 to compel Board to act.
- 5) Seek adjournment of sentencing.
- 6) Reject plea from US Attorney and go to trial.
- 7) Fight the Surrogate Court Act - doesn't apply to corps, to federal court actions, etc.

Bankers Trust Private Bankin

William J. White
Managing Director

November 15, 1999

As you know, Deutsche Bank and Bankers Trust Company officially joined forces on June 4, 1999, creating the largest bank in the world and an institution of unrivaled financial strength and depth of resources. We are pleased to report that we are enjoying a smooth, collegial transition with few changes to our existing organization. In fact, we will continue to provide service under the name that the marketplace has come to know and respect: *Bankers Trust Private Banking*.

We are taking advantage of this transition period to inventory our strengths and to bolster our capabilities as a first-rate provider of fiduciary and wealth planning services. As always, our goal is to ensure that we deliver the highest standard of service to our clients. In this regard, we have identified one area that we want to address immediately.

On Monday, July 26, 1999, a Federal court case involving Bankers Trust Company came to a close, marking the conclusion of a sad chapter in the Bank's history. This case has been exceptionally frustrating for us in the private banking and personal trust business lines. Even though our businesses were not involved or implicated in the case in any way, there have been some unforeseen repercussions that we feel compelled to remedy swiftly and decisively.

It is our understanding that the outcome of the case may hinder our ability to accept new testamentary business within New York State. We can still conduct this type of business through our regional trust companies: Bankers Trust Company Connecticut Ltd., Bankers Trust Florida, N.A., Bankers Trust Company of California, N.A., Bankers Trust (Delaware), and Bankers Trust Company New Jersey Limited. Nevertheless, it is unacceptable to us that any development, however unintended, should stand in the way of our ability to provide the full array of fiduciary services to our clients from any of our offices.

Accordingly, we have decided to transfer substantially all of Bankers Trust Company's personal trust business, including fiduciary relationships in which you are a party or in which you have an interest, to an existing trust affiliate that will carry on our ninety-six year tradition of premium service under the name *Bankers Trust Company of New York*. This transfer will ensure our continuing ability to provide all of our fiduciary services to our clients. It will enable us to concentrate our managerial and administrative expertise on your behalf while continuing to service your account with the same dedicated trust team you have worked with in the past. This action will also complement our regional trust approach with *Bankers Trust Company of New York* serving as the New York anchor to our national trust business and rounding out our personal trust units in Connecticut, Florida, California, Delaware, and New Jersey.

A "Notice of Position" -- the formal notification concerning our plan of action -- is enclosed. Should you have any questions, please contact us at 1-800-454-0353. We look forward to continuing to meet your personal trust needs.

Sincerely,

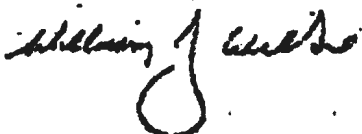


Exhibit 31

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

**IN THE MATTER OF THE APPLICATION OF
BANKERS TRUST COMPANY OF NEW YORK
(f.k.a. DEUTSCHE BANK TRUST COMPANY) and
BANKERS TRUST COMPANY,**

Petitioners,

**For substitution of fiduciary relationships pursuant to
New York Banking Law §154.**

Index No.

NOTICE OF PETITION


PLEASE TAKE NOTICE that, upon the Verified Petition of Bankers Trust Company of New York ("Trust Co.") (f.k.a. Deutsche Bank Trust Company) and Bankers Trust Company ("BTCO"), verified on September 28-29, 1999 and filed in the office of the Clerk of the County of New York on October 29, 1999, and pursuant to an Ex Parte Order entered by the Supreme Court of the State of New York, County of New York, on October 29, 1999, a hearing will be held before the Court, in the Courthouse located at 60 Centre Street, New York, New York, in Room 218 thereof, on December 17, 1999 at 11:00 a.m., to determine Petitioners' application for an Order pursuant to New York Banking Law ("NYBL") Section 154 substituting Trust Co. for BTCO in every existing fiduciary relationship designated in the Verified Petition and in every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and/or fiduciary agencies established by or pursuant to the instructions of one or more individuals (as opposed to corporate entities) which may take effect after the date of the hearing.

Pursuant to NYBL Section 154(4), any person to whom this notice is provided wishing to object to the relief sought in the Verified Petition must: (1) at least three (3) days before the date of the hearing (a) file with the Clerk of the Supreme Court of the State of New York, County of New York, a written objection setting forth the reasons therefor; and (b) serve a copy of such written objection upon the undersigned attorneys for petitioners; and (2) appear at the hearing in person or by attorney.

Dated: New York, New York
October 29, 1999

WHITE & CASE LLP

By:


Philip H. Schaeffer
Cyrus Benson III
David G. Hille
1155 Avenue of the Americas
New York, New York 10036
(212) 819-8200

Attorneys for Petitioners

DIVISION OF PAROLE

87 CENTRAL AVENUE
ALBANY, NEW YORK 12208

BRUCE D. TRUMB
CHAIRMAN

MARTIN CIRINCIONE
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Martin Cirincione, Executive Director
Division of Parole

FROM: James V. Murray, Director
Executive Clemency Bureau

RE: Status: Bankers Trust

DATE: October 12, 1999

Sullivan and Crowell is sending me data on the remaining \$36 million.
Upon reception, a final report can be done.

Total amount "inappropriately" taken was \$35.1 million. The plea deal
covered \$19.1 million.

From the opening stance of minimizing and avoidance, they have moved to
full cooperation.

(Really the same as other cases: burglar does 20 jobs but pleas to one
event.)

The facts should be clearer, the issue clearer, and the decision simpler
and in line with more common Board decisions. (What did you do, what do
you need Certificate for, what safeguards are in place.)

JVM:crc

Exhibit 32

**STATE OF NEW YORK
COUNTY OF WESTCHESTER ss:
SURROGATE'S OFFICE**

I, JOHN W. KELLY, Chief Clerk of the Surrogate's Court of the County of Westchester, do hereby certify that I have compared the foregoing copy of the MEMORANDUM, DATED OCTOBER 12, 1999, FROM DIVISION OF PAROLE;

Re: The Estate of RALPH P. MANNY, DECEASED.

FILED: FEBRUARY 9, 2005

with the original thereof now remaining in this office and have found the same to be a correct transcript therefrom, and of the whole of such original.

Dated and Sealed FEBRUARY 10, 2005



John W. Kelly
CHIEF CLERK of the SURROGATE'S COURT

~~Statement reveals that Bankers Trust Company acknowledges that the total amount inappropriately taken was \$55.1 million. The plea deal in federal court covered \$19.1 million. Therefore, based on this new information and documentation, there is no doubt that Bankers Trust Company and their attorneys engaged in bad faith by knowingly perpetrating a criminal fraud and actual fraud on a Federal Court and this Court.~~

8. The above clearly shows, by the Petitioners' own statements, that there are questions which must be asked and answered in discovery regarding all of the Petitioners' and Bankers Trust Company's criminal activity admissions, guilty pleas, convictions, indictments, and bad faith behavior.

9. The Respondents respectfully pray that leave be granted to amend their Objections, particularly in light of this State's policy and the courts' overwhelming tendency to freely grant amendments.

Dated: White Plains, New York
February 9, 2005

BASHIAN, FARBER & PARKER, LLP

By: 
Gary E. Bashian, Esq.

235 Main Street
White Plains, New York 10601

Exhibit 33

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF
BANKERS TRUST COMPANY OF NEW YORK :
(f.k.a. DEUTSCHE BANK TRUST COMPANY) and :
BANKERS TRUST COMPANY, :

Petitioners, :

For substitution of fiduciary relationships pursuant to :
New York Banking Law §154. :
----- x

Index No. 99 | 121 823

VERIFIED PETITION

NYS SUPREME COURT
RECEIVED

OCT 29 1999

I. A. S. MOTION
SUPPORT OFFICE

Bankers Trust Company of New York and Bankers Trust Company, by their attorneys, White & Case LLP, for their Verified Petition (the "Petition"), allege as follows upon information and belief:

1. Petitioner Bankers Trust Company of New York ("Trust Co.") (f.k.a. Deutsche Bank Trust Company) is a trust company organized under the laws of the State of New York with its principal place of business at 31 West 52nd Street, New York, New York 10019. Trust Co. is authorized to carry on trust activities pursuant to Section 100 of the New York Banking Law ("NYBL"). A copy of the authorization certificate issued to Deutsche Bank Trust Company (as Trust Co. was then known) by the New York State Banking Department is attached hereto as Exhibit A.

2. Trust Co. is, and since its inception has been, an indirect wholly owned subsidiary of Deutsche Bank AG ("Deutsche Bank"), a banking corporation organized under the laws of Germany with its principal place of business at Taunusanlange 12, D-60325 Frankfurt am Main, Germany. Deutsche Bank, with consolidated assets of approximately \$755 billion (as of

Exhibit 34

June 30, 1999), is the largest banking organization in the world in terms of assets. Deutsche Bank has over 2,300 offices located in more than 60 countries, including offices in the City and County of New York, and employs in excess of 90,000 employees.

3. Petitioner Bankers Trust Company ("BTCo") is a bank chartered under the laws of the State of New York with its principal place of business at 130 Liberty Street, New York, New York 10006. Among other things, BTCo is authorized to carry on trust activities pursuant to Section 100 of the NYBL.

4. BTCo is a wholly owned subsidiary of Bankers Trust Corporation ("Bankers Trust"), a bank holding company established under the laws of the State of New York with its principal place of business at 130 Liberty Street, New York, New York 10006. Bankers Trust has consolidated assets of approximately \$127 billion (as of March 31, 1999), making it one of the largest banking organizations in the United States in terms of assets, with offices in more than 50 countries, including offices in the City and County of New York, and more than 20,000 employees worldwide.

5. On June 4, 1999, Deutsche Bank completed the acquisition of all of the outstanding shares of Bankers Trust pursuant to an Agreement and Plan of Merger dated as of November 30, 1998 (the "Acquisition Agreement"). As set forth in the Acquisition Agreement, Circle Acquisition Corporation, a subsidiary of Deutsche Bank, merged with and into Bankers Trust, with Bankers Trust remaining as the surviving corporation and thereby itself becoming an indirect, wholly owned subsidiary of Deutsche Bank.

NYBL Section 154

6. Section 154(1)(a) of the NYBL provides that a "subsidiary trust company" may apply by verified petition to the Supreme Court, in and for the county in which its principal

office is located, requesting that it be substituted for affiliated trust companies specified in the petition "(i) in every existing fiduciary capacity designated therein and (ii) in the case of the first such petition, in every fiduciary capacity which may take effect after the date of the hearing" Each such specified affiliated trust company is required to join in the petition. NYBL Section 154 further sets forth the procedure and requirements for, and legal effect of, those substitutions, including that for notice to the persons interested in the subject fiduciary relationships and an opportunity to object to the transfer of those relationships by way of substitution.

7. For purposes of Section 154 of the NYBL, Trust Co. and BTCo are affiliated trust companies. Pursuant to NYBL Section 154, Petitioners seek to have Trust Co. substituted for BTCo in each of the existing fiduciary relationships hereinafter identified, and in every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and/or fiduciary agencies established by or pursuant to instructions of one or more individuals (as opposed to corporate entities) which may take effect after the date of the hearing on the Petition.

BTCo and the Business to be Transferred to Trust Co.

BTCo

8. Bankers Trust has three major banking subsidiaries, BTCo, Bankers Trust (Delaware), a bank organized under the laws of the State of Delaware, and Bankers Trust Florida, N.A., a national bank organized under the laws of the United States, in addition to a number of limited purpose trust companies and nonbanking subsidiaries.

9. BTCo, Bankers Trust's principal banking subsidiary, is a leading commercial bank which also is authorized to exercise trust powers. BTCo provides a wide range

of banking, fiduciary, record keeping, custodial, brokerage, asset management and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide.

10. BTCo was founded in 1903 to provide trust services to a consortium of domestic commercial banks. With the establishment of the Federal Reserve System in 1914, BTCo expanded into the commercial banking business while maintaining its identity as a trust institution. After World War II, BTCo continued to grow and gradually developed into a wholesale bank. By the 1970's, BTCo transacted business in more than 30 countries. In the 1980's, BTCo developed its business in the area of leveraged buy-outs and the trading of structured instruments, and in the late 1990's initiated several acquisitions to strengthen the bank's franchise in traditional investment banking. Throughout this time, BTCo retained its personal fiduciary services business as a natural complement to private banking services for private companies, individuals and their families.

11. Today, BTCo divides its businesses into three primary segments: (i) Global Institutional Services ("GIS"); (ii) Commercial Lending; and (iii) Private Banking.

12. GIS provides services in the institutional market place. These include Global Cash Management (i.e., cash clearing, deposit services, corporate cash management and financial institution export services), Global Custody (i.e., foreign and domestic income collection and security clearing services), Investor Services (i.e., corporate retirement services (including trustee services), securities lending, investment administration, strategic advisory services, discount brokerage and performance measurement services), and Corporate Trust and Agency Services (i.e., services for structured and unstructured debt securities in the domestic and international markets, and acting as a depository bank).

13. Commercial Lending functions as the booking center for new leveraged and structured loans, and also handles that portion of the commercial loans portfolio which remains on BTCo's books.

14. Private Banking provides services to individuals and families, family owned companies, and selected institutions (primarily charitable). Private Banking services customarily are divided into five business lines: Personal Fiduciary Services (described below); Investment Management (i.e., investment management or advisory services for fixed income accounts, balanced accounts and equity accounts, among others); Custody Services (i.e., services including safekeeping, record keeping, income collection and security clearing services); Lending Services (i.e., the provision of secured loan facilities and mortgages); and Banking Services (i.e., checking and savings accounts for clients with other relationships within the Private Bank).

The Business to be Transferred

15. Petitioners seek to transfer from BTCo to Trust Co. that part of BTCo's Private Banking business known as Personal Fiduciary Services ("PFS") (sometimes referred to as the Fiduciary Services Division). PFS consists of approximately 60 employees who administer approximately 2,500 fiduciary accounts (i.e., estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and fiduciary agencies) with total assets of approximately \$7 billion. PFS's fiduciary accounts are generally established by individuals for the benefit of individuals, although a number of account beneficiaries are charitable organizations or other qualified organizations selected by BTCo as trustee. PFS also is responsible for marketing lifetime fiduciary services, seeking will appointments and maintaining "will files" for clients who have named BTCo in a testamentary fiduciary capacity.

16. Pursuant to various servicing agreements, PFS provides administrative services to BTCo's trust company affiliates in Connecticut, Florida, California and Delaware in connection with fiduciary accounts where such affiliates are the named fiduciaries. These fiduciary accounts will not be transferred to Trust Co. upon the substitution of Trust Co. for BTCo as sought herein. It is anticipated that the trust company affiliates, in their respective fiduciary capacities, will make independent judgments whether to outsource administrative services to Trust Co., to continue to utilize BTCo (less PFS), or to utilize some combination thereof. Pursuant to the above-mentioned servicing agreements, BTCo trust affiliates may also administer as agent for BTCo certain accounts that name BTCo as the fiduciary, but where the situation of the beneficiaries or other conditions render it more beneficial and efficient to have such accounts administered in these locations. These latter accounts are included among those sought to be transferred to Trust Co. and, if transferred, Trust Co. expects to continue to maintain these administrative services agreements with the BTCo trust company affiliates.

17. PFS is divided into five groups: (i) Trust Administration; (ii) Tax Production; (iii) Wealth Planning Strategies; (iv) Property and (v) Fiduciary Accounting. Trust Administration consists of three teams responsible for client relationships and the administration of fiduciary accounts, which includes, among other things, assuring that the terms of governing instruments are carried out and that discretionary distributions are considered and executed in accord with will or trust agreement terms, maintaining client records, addressing client questions and concerns, and advising on wealth planning opportunities. Tax Production prepares federal and state fiduciary income tax returns, provides tax record keeping support and handles client tax information reporting. Wealth Planning Strategies works with clients and their advisors to achieve clients' succession planning and charitable objectives and provides sophisticated technical

support to units throughout the Private Bank. The Property group is responsible for managing oil and gas properties in estates and trusts, as well as real estate properties and assets without ready markets such as partnership interests and securities in closely held companies. Finally, Fiduciary Accounting is responsible for reviewing and at times preparing formal and informal accountings rendered on trusts, estates and other fiduciary accounts, and for addressing various fiduciary accounting questions as they arise.

18. PFS receives portfolio management support from the Private Bank's Investment Advisory Division, and custody, securities clearance and settlement, and other operational support from the Technology and Operations Division. It also interacts with other areas of the Private Bank, including marketing and sales.

**The Criminal Proceedings Relating
to BTCo's Client Processing Services**

19. On March 11, 1999, the United States Attorney for the Southern District of New York filed a three-count felony information (the "Information") against BTCo alleging violations of 18 U.S.C. § 1035. The Information charged BTCo with making false entries on its books and records during 1994-1996 as a result of the conduct of certain employees in its Client Processing Services ("CPS") business. The false entries were alleged to have been made to conceal the transfer to BTCo reserve accounts and income of aged credit items from accounts which held funds BTCo had unsuccessfully sought to distribute to various payees to whom they were owed, or whose rightful owners BTCo was unable to identify. The accounts which were the subject of the Information were maintained by BTCo's (i) Corporate Trust and Agency Group, which provided paying agent and fiduciary services to issuers of securities, (ii) Retirement Services Group, which provided custodial, trust administration and asset management services to

employee benefit and pension plans of corporations, governments and their agencies, and (iii) Global Securities Services, which provided custodial, processing and clearing services to purchasers and sellers of securities. These business units are now part of GIS. On the same day the Information was filed, BTCo entered a plea of guilty to the charges in the Information and agreed to pay a \$60 million fine. Sentencing in accordance with this plea agreement was held on July 26, 1999. In addition, pursuant to a letter of commitment with the New York State Banking Department, BTCo paid an agreed upon payment of \$3.5 million to the State of New York.

20. In early 1996, BTCo learned of the potential misuse of certain unclaimed funds which it promptly reported to the United States Department of Justice, the Federal Reserve Bank of New York and the New York State Banking Department. BTCo has cooperated and will continue to cooperate with all investigations by governmental agencies. In addition, with the assistance of counsel and Arthur Andersen LLP, BTCo conducted a comprehensive forensic review of the CPS transactions involved. BTCo has reimbursed, or is in the process of reimbursing, any affected customers or third parties that can be identified. Any funds that could not be returned to the proper owner have been or will be escheated to the appropriate abandoned property authority, or distributed pursuant to a plan approved by the Federal Reserve Bank of New York.

21. After BTCo discovered and reported the transactions beginning in March 1996, it implemented substantial changes to the management of GIS, which includes the former CPS businesses, and adopted a comprehensive system of controls designed to prevent recurrence of the wrongful conduct. These controls include new policies and procedures regarding the handling of unclaimed property, and training programs for all employees in GIS. The individuals

that BTCo determined to be responsible for the conduct that gave rise to the Information and plea are no longer in BTCo's employ.

22. As described above, CPS is a business division of GIS and the conduct that is the subject of the Information and plea involved the accounting, processing and custody operations of BTCo. PFS, on the other hand, is a business division of Private Banking, a wholly separate business activity and organization. Neither PFS, nor any of its client accounts, were implicated or involved in any way in the conduct underlying the Information and plea.

Reasons for the Requested Substitution

23. Section 707 of the Surrogate's Court Procedure Act ("SCPA") provides, inter alia, that letters of administration, executorship and trusteeship may not be issued to a person who is a "felon." Similarly, Section 711 of the SCPA provides that any interested person may seek to have a fiduciary's letters suspended, modified or revoked if the person subsequently becomes ineligible or disqualified to act as a fiduciary, and Section 719 of the SCPA provides that such action may be taken by a court where a fiduciary has been "convicted of a felony." Generally, under the judicial interpretations of these statutory provisions, a conviction of a federal crime is considered a felony conviction for purposes of the SCPA if the offense is a felony under the law of the State of New York.

24. Petitioners do not believe that BTCo would be considered a "felon" for purposes of the SCPA because, among other things, the New York state offense most analogous to 18 U.S.C. § 1005 is NYBL § 672, which applies only to individuals, not to corporate entities. In addition, the only other arguably analogous statute is New York Penal Law § 175.05, which provides for felony and misdemeanor convictions under circumstances where business records are

falsified with an intent to defraud. 18 U.S.C. § 1005 on its face is most closely analogous to the misdemeanor provision of Penal Law § 175.05.

25. It is possible, however, that in individual instances persons might request that such letters be denied or revoked under SCPA §§ 707, 711 or 719, or comparable statutes in other states from whose courts BTCo has obtained or may seek to obtain letters. There is no assurance that the courts faced with such requests will uniformly rule in a manner consistent with petitioners' position. In light of this uncertainty, and in order to avoid the diversion of management and the potential for piecemeal litigation over events that have absolutely no relevance to the PFS business, Petitioners seek to remove this "cloud" via a substitution of Trust Co. for BTCo in the PFS fiduciary accounts and capacities designated herein.

26. Petitioners also seek such a substitution to derive the benefits of a separate stand-alone entity for the marketing and provision of discrete services or product lines to customers and clients, as demonstrated by the other trust affiliates of Bankers Trust and the experience of Deutsche Bank and their global competitors. A separate corporate entity dedicated to the provision of fiduciary services to non-institutional clients of BTCo and Trust Co. brings focus, undiluted management attention, marketing, personnel retention and other demonstrable benefits to an important segment of the financial and fiduciary services business.

**Trust Co. is Thoroughly Qualified
and Capable of Providing the
Necessary Services to BTCo's PFS Clients**

27. Deutsche Bank's international banking business currently employs more than 1,000 employees at over 100 locations in 34 countries. In the Americas region alone, over \$8.1 billion is administered as trust assets by Deutsche Bank. Trust Co. will be part of this extensive international network. Following the substitution of Trust Co. for BTCo as requested

herein, and prior to the transfer of any accounts, Trust Co. will be capitalized at a level satisfactory to the New York State Banking Department.

28. Upon the Court's approval of the requested substitution, the current BTCo PFS staff of approximately 60 employees will become employees of Trust Co. This includes the PFS employees in Trust Administration, Wealth Planning Strategies, Fiduciary Accounting, Property and Tax Production. William J. Wilkie, who currently has overall management responsibility for PFS, will retain that responsibility with Trust Co. The policies and procedures for Trust Co. will be substantially those of PFS. During the transition period leading up to the June 4, 1999 acquisition, Trust Co. decided to move its operations (which had been serviced by third party servicers) to BTCo. Thus, PFS, like its current stand-alone trust company affiliates, will retain in place the operational support that it receives from other business segments of BTCo's Private Bank (e.g., custody, cash and securities movements, securities settlements, information technology, risk management, audit/compliance, legal and financial controlling). This will be implemented through the utilization of service agreements between Trust Co. and BTCo (less PFS). Accordingly, PFS, as part of Trust Co., will continue to operate its business as it does now (i.e., the transition should be relatively seamless).

The Required Notices

29. On August 19, 1999, notice of the filing of this Petition was provided to the New York Superintendent of Banks, in accordance with NYBL Section 154(1)(a). Notice was also provided to the Office of the Attorney General of the State of New York, as representative of all charitable beneficiaries.

30. A list of each and all of the fiduciary relationships existing as of the date of this Petition for which Petitioners request that Trust Co. be substituted for BTCo, and the names,

last-known addresses and interests of all persons entitled to receive notice of this Petition pursuant to NYBL Section 154(l)(b), is attached hereto as Exhibit B.

31. Exhibit B was prepared using PFS's "AIMS" system, an in-house accounting system where all account and client information is maintained. The AIMS database links clients to an account using relationship codes which identify the capacity in which the clients are associated with a particular account (e.g., beneficiary, remainderman, co-fiduciary, donor, etc.). Administrative officers assigned to each account are responsible for maintaining and periodically updating the AIMS database. A further and systematic review and updating of the database occurs during the periodic accountings for common trust funds required by NYBL Section 100-c. (Many of BTCo's fiduciary accounts including accounts subject to this proceeding participate in one or more of the common trust funds administered by BTCo. The common trust funds themselves will continue to be administered by BTCo and accounts for which Trust Co. is substituted will continue to be eligible to participate in such funds.)

32. In addition to reliance on the AIMS database, PFS administrative officers reviewed each trust or other governing document to (i) confirm the accuracy all of the interested party information in the database, (ii) add names where necessary and (iii) ascertain whether there are persons required to be notified who might not have been included in the AIMS system as a matter of course (e.g., persons with the power to revoke, amend or remove a trustee).

33. Those persons entitled to receive notice of this Petition (those listed on Exhibit B) include:

- (i) where BTCo is acting with one or more co-fiduciaries in respect to such fiduciary relationship, each such co-fiduciary;

- (ii) in the case where the instrument creating such fiduciary relationship so provides, each person who alone or together with others is empowered to revoke, terminate or amend such instrument or to remove the corporate fiduciary,
- (iii) in the case of any fiduciary relationship not specified in subparagraph (ii) above, each beneficiary currently receiving income and any other beneficiary interested in the income, and any person presumptively entitled to share in distributions of principal were such fiduciary relationship terminated at the date of this Petition;
- (iv) in the case of any fiduciary relationship, including those specified in subparagraphs (i), (ii) and (iii), above, which is an estate of a deceased person or which is a guardianship or conservatorship, the clerk of the court in which such estate, guardianship or conservatorship matter is pending, together with a statement that notice has been, or is being, given to the persons specified in such subparagraphs; and
- (v) in the case of any person specified in subparagraphs (i), (ii) or (iii) above who is known to petitioners to be an infant or an incompetent, the guardian or committee, as the case may be, of his or her property.

34. A list of all persons entitled to notice of this Petition whose whereabouts are unknown is attached hereto as Exhibit C.

35. NYBL Section 154(1)(b)(iv) provides that the Court may in its discretion appoint one or more guardians *ad litem* to represent in this proceeding any one or more such persons listed in Exhibit C, or any others whose interests should be represented. If one or more guardians *ad litem* is appointed, notice of this Petition shall be given to such appointees.

36. NYBL Section 154(2) provides that at least twenty-five days prior to a hearing date to be fixed by this Court, a Notice of Petition will be mailed by first class mail to each person identified in this Petition as being entitled to receive notice and to any guardian appointed by the Court. The Notice of Petition will be mailed to each such person's last known address, and, in addition, a copy of the Notice of Petition shall be published in a newspaper of general circulation in New York County to be designated by the Court at least once a week for three successive weeks preceding the hearing date, the first such publication to be at least twenty-five days prior to the hearing date. A form of the Notice of Petition, prepared in accordance with NYBL Section 154(3), is attached hereto as Exhibit D. The Service List for the Notice of Petition is attached hereto as Exhibit E.

37. Pursuant to the provisions of NYBL § 154(4), any person who is entitled to receive notice of this proceeding will have the right to object to the transfer of the fiduciary relationship in which he or she is interested and to have that objection promptly heard by this Court. Such a prompt resolution of any objections is manifestly in the interest of all concerned.

Relief Requested

38. Petitioners have filed, contemporaneously with this Petition, an Order to Show Cause approving the form of the Notice of Petition described in the foregoing paragraph 36, setting a date and time for the hearing, and appointing a guardian *ad litem* for persons whose whereabouts are unknown and others whose interests should be represented.

39. The New York Superintendent of Banks has acknowledged that it will not object to the substitution of Trust Co. for BTCo as requested herein. A copy of this acknowledgment is attached hereto as Exhibit F.

40. Petitioners have made no previous application for the relief requested herein.

WHEREFORE, Petitioners respectfully request that this Court:

- (1) enter the Order to Show Cause:
 - (a) approving the form of the Notice of Petition;
 - (b) setting a date and time for the hearing on the Petition; and
 - (c) in the Court's discretion, appointing a guardian *ad litem* to represent persons whose whereabouts are unknown and others whose interests should be represented;
- (2) enter an Order upon the hearing on the Petition:
 - (a) determining that sufficient notice of the Petition has been provided to all those entitled to receive notice; and
 - (b) granting Petitioners' request, pursuant to NYBL Section 154, that Trust Co. be substituted for BTCo in each and every existing fiduciary capacity designated herein (for which no objection has been filed) and in every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and/or fiduciary agencies established by or pursuant to instructions of one or more individuals (as opposed

to corporate entities) which may take effect after the date of the hearing; and

- (3) enter an Order, upon a further hearing on any objections, granting Petitioners' request that Trust Co. be substituted for BTCo in the fiduciary capacities which are the subject of such objections.

Dated: New York, New York
September 28, 1999

WHITE & CASE LLP

By: 

Philip H. Schaeffer
Cyrus Benson III
David G. Hille
1155 Avenue of the Americas
New York, New York 10036-2787
(212) 819-8200


Attorneys for Petitioners Bankers Trust Company of
New York (f.k.a. Deutsche Bank Trust Company)
and Bankers Trust Company

VERIFICATION

STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

William J. Wilkie, being duly sworn, deposes and says:

That he is Managing Director of Bankers Trust Company ("BTCO"), one of the petitioners herein; that he has read the foregoing verified petition; that the same is true as to his own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, he believes it to be true; that the basis for his knowledge, information and belief is the books, records and papers of BTCO; and that the reason why this verification is not made by BTCO is that BTCO is a bank organized under the laws of the State of New York.



William J. Wilkie

Sworn to before me this
26 day of September, 1999.



Notary Public

MARC A. MENCHISE
Notary Public, State of New York
No. 01ME9007174
Qualified in Bronx County
Certificates Filed in New York County
Commission Expires May 18, 2000



STATE OF NEW YORK

Banking Department

Know all Men by these Presents, Whereas, the organization
certificate of DEUTSCHE BANK TRUST COMPANY
of NEW YORK, NEW YORK has heretofore been duly approved
and said DEUTSCHE BANK TRUST COMPANY
has complied with the provisions of Chapter 2 of the Consolidated
Laws,

Now Therefore, I, NEIL D. LEVIN, as
Superintendent of Banks of the State of New York, do hereby
authorize the said DEUTSCHE BANK TRUST COMPANY
to transact the business of a TRUST COMPANY
at 31 WEST 52nd STREET, BOROUGH OF MANHATTAN,
CITY OF NEW YORK within this State.



In Witness Whereof, I have hereunto set my hand and
affixed the official seal of the Banking Department,
this 5th day of MAY in the year
one thousand nine hundred and NINETY-FIVE

Neil D. Levin
Superintendent

TO BE FILED PURSUANT TO SEALING ORDER



STATE OF NEW YORK
BANKING DEPARTMENT
TWO RECTOR STREET
NEW YORK, NY 10006

September 9, 1999

Troland S. Link, Esq.
General Counsel
Deutsche Bank America Holdings
31 West 52nd Street
New York, NY 10109

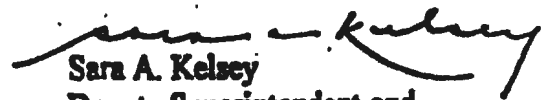
Re: Application pursuant to Section 154
of the New York Banking Law

Dear Mr. Link:

This letter confirms that the Superintendent of Banks has no objection to and will not oppose the entry of orders of Supreme Court, New York County:

- (a) granting pursuant to Article 3-B of the Banking Law, the substitution of Bankers Trust Company of New York (f.k.a. Deutsche Bank Trust Company) for Bankers Trust Company in each and every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, testamentary trusts, inter vivos trusts, supplemental needs and/or fiduciary agencies established by or pursuant to the instructions of one or more individuals; and
- (b) approving the form of the notice of petition for such substitution annexed hereto.

Very truly yours,


Sara A. Kelsey
Deputy Superintendent and
Counsel

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

**IN THE MATTER OF THE APPLICATION OF
BANKERS TRUST COMPANY OF NEW YORK
(f.k.a. DEUTSCHE BANK TRUST COMPANY) and
BANKERS TRUST COMPANY,**

Petitioners,

**For substitution of fiduciary relationships pursuant to
New York Banking Law §154.**

X

Index No.

NOTICE OF PETITION

X

PLEASE TAKE NOTICE that, upon the Verified Petition of Bankers Trust Company of New York ("Trust Co.") (f.k.a. Deutsche Bank Trust Company) and Bankers Trust Company ("BTCO"), verified on September __, 1999 and filed in the office of the Clerk of the County of New York on September __, 1999, and pursuant to an Order to Show Cause entered by the Supreme Court of the State of New York, County of New York, on September __, 1999, a hearing will be held before the Court. in the Courthouse located at 60 Centre Street, New York, New York, in Room _____ thereof, on _____, 1999 at _____ a.m./p.m., to determine Petitioners' application for an Order pursuant to New York Banking Law ("NYBL") Section 154 substituting Trust Co. for BTCO in every existing fiduciary relationship designated in the Verified Petition and in every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and/or fiduciary agencies established by or pursuant to the instructions of one or more individuals (as opposed to corporate entities) which may take effect after the date of the hearing.

Pursuant to NYBL Section 154(4), any person to whom this notice is provided wishing to object to the relief sought in the Verified Petition must: (1) at least three (3) days before the date of the hearing (a) file with the Clerk of the Supreme Court of the State of New York, County of New York, a written objection setting forth the reasons therefor, and (b) serve a copy of such written objection upon the undersigned attorneys for petitioners; and (2) appear at the hearing in person or by attorney.

Dated: New York, New York
September __, 1999

WHITE & CASE LLP

By:

Philip H. Schaeffer
Cyrus Benson III
David G. Hille
1155 Avenue of the Americas
New York, New York 10036
(212) 819-8200

Attorneys for Petitioners

INDEX NO. ()

**SUPREME COURT OF THE STATE OF
NEW YORK COUNTY OF NEW YORK**

**IN THE MATTER OF THE APPLICATION
OF BANKERS TRUST COMPANY OF
NEW YORK (f.k.a., DEUTSCHE BANK
TRUST COMPANY) AND BANKERS
TRUST COMPANY,**

PETITIONERS,

**FOR SUBSTITUTION OF FIDUCIARY
RELATIONSHIPS PURSUANT TO NEW
YORK BANKING LAW SECTION 154.**

COPY

VERIFIED PETITION

**WHITE & CASE
LIMITED LIABILITY PARTNERSHIP**

ATTORNEYS FOR PETITIONERS

**1155 Avenue of the Americas
New York, New York 10036-2787
212-819-8200**

TO.....

ATTORNEY FOR.....

SIR:

PLEASE TAKE NOTICE that a

**.....
of which the within is a true copy, has
been made herein and was duly entered
and filed in the office of the Clerk of the**

**.....
.....
on the day of
19**

**WHITE & CASE
LIMITED LIABILITY PARTNERSHIP**

Attorneys for

**1155 Avenue of the Americas
New York, New York 10036-2787**

To

Attorney for.....



BRION D. TRAVIS
CHAIRMAN

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE
97 CENTRAL AVENUE
ALBANY, NEW YORK 12208

MARTIN CIRINCIONE
EXECUTIVE DIRECTOR

December 2, 1999

Samuel W. Seymour, Esq.
Sullivan and Cromwell
125 Broad Street
New York, NY 10004-2496

Re: Bankers Trust Company

Dear Mr. Seymour:

Enclosed is the original of the Certificate of Relief From Disabilities issued by the Board of Parole for your client, Bankers Trust Company.

Sincerely,

JAMES V. MURRAY
Director
Executive Clemency Bureau

Enclosure
JVH:crc

bc: Martin Cirincione

Exhibit 35



STATE OF NEW YORK
 CERTIFICATE OF RELIEF FROM DISABILITIES

COPY

FOR COURT OR BOARD OF PAROLE
 Docket, File, or other identifying No.
 99CR250
 CR-99-164

This certificate is issued to the holder to grant relief from all or certain enumerated disabilities, forfeitures, or bars to his employment automatically imposed by law by reason of his conviction of the crime or of the offense specified herein.

This certificate shall NOT be deemed nor construed to be a pardon.

SEE REVERSE SIDE FOR EXPLANATION OF THE LAW GOVERNING THIS CERTIFICATE

The Original Certificate is to be presented to the person to whom awarded. One copy is to be retained by the issuing agency, a one copy is to be filed with the N.Y.S. Div. of Criminal Justice Services, Executive Park, Stuyvesant Plaza, Albany, N.Y. 12203

1. For use by DCJS	HOLDER OF CERTIFICATE		3. NYSID Number (If not known, copy fingerprints to DCJS. If fingerprints unobtainable, complete items 15-18 below.)
	2. Last Name Bankers Trust Company	First Name Bankers Trust Company	Middle Initial
4. Crime or offense for which convicted Making False Entries in Bank Books and Records (3 counts)	5. Date of arrest N/A	6. Date of sentence 7/26/99	
7. Court of disposition (Court, Part, Term, Venue) United States District Court Southern District of New York	8. Certificate issued by: <input type="checkbox"/> COURT INDICATED IN NO. 7 <input checked="" type="checkbox"/> STATE BOARD OF PAROLE		
9. Date this certificate issued	10. If this Certificate replaces Certificate of Relief From Disabilities previously issued, give date of previous Certificate. Date: <input checked="" type="checkbox"/> Not Applicable		

11. CHECK ONE BOX ONLY

This certificate shall:

- a. Relieve the holder of all forfeitures, and of all disabilities and bars to employment, excluding the right to retain or to be eligible for public office, by virtue of the fact that this certificate is issued at the time of sentence. The Date of Sentence in this case must agree with the Date Certificate Issued.
- b. Relieve the holder of all disabilities and bars to employment, excluding the right to be eligible for public office.
- c. Relieve the holder of the forfeitures, disabilities or bars hereinafter enumerated S.C.P.A. Section 707(1)d

12. This certificate shall be considered permanent.

This certificate shall be considered temporary until ----- After this date, unless revoked earlier by the issuing court or parole board, this certificate shall be considered permanent. A person who knowingly uses or attempts to use a revoked certificate in order to obtain or exercise any right or privilege that he would not be entitled to obtain or to exercise without valid certificate shall be guilty of a misdemeanor.

13. Signature of issuing official(s) <i>Joseph J. Gawloski</i> <i>Daizze D. Bouey</i> <i>R. Guy Vizzie</i>	Print or type name(s) Joseph J. Gawloski 11-19-99 Daizze D. Bouey 11-19-99 R. Guy Vizzie 11-22-99	14. Title(s) COMMISSIONER COMMISSIONER COMMISSIONER
---	---	---

Complete the following for DCJS, only if fingerprints are not obtainable

15. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	16. Color	17. Height ft. in.	18. Date of Birth (Month, Day, Year)
--	-----------	-----------------------	--------------------------------------

LAWS GOVERNING THE ISSUANCE OF CERTIFICATES OF RELIEF FROM DISABILITIES

(The laws governing the issuance of certificates of relief from disabilities are set forth in Article 23 of the New York State Correction Law. The excerpts below summarize certain portions of those laws and are set forth here for convenience. They are not intended as administrative interpretations and they do not relieve any party of full knowledge of and compliance with the applicable provisions of law.)

This certificate is issued to relieve the holder, an "eligible offender" as defined in § 700 of the Correction Law, of all or of enumerated forfeitures, disabilities, or bars to employment automatically imposed by law by reason of his conviction of the crime or offense specified on the face of this certificate.

This certificate shall be considered a "temporary certificate" where (1) issued by a court to a holder who is under a "revocable sentence" as defined in § 700 of the Correction Law and the court's authority to revoke such sentence has not expired, or (2) issued by the State Board of Parole and the holder is still under the supervision of the Board. Where the holder is under a revocable sentence, this certificate may be revoked by the court for violation of the conditions of such sentence and shall be revoked by the court if it revokes the sentence and commits the holder to an institution under the jurisdiction of the State Department of Correctional Services. Where the holder is subject to the supervision of the State Board of Parole, this certificate may be revoked by the Board for violation of the conditions of parole or release. Any such revocation shall be upon notice and after an opportunity to be heard. If this certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the court's authority to revoke the sentence or upon termination of the jurisdiction of the Board of Parole over the holder.

RIGHTS OF RELIEF FROM DISABILITIES

- A. Where the certificate is issued by a court at the time sentence is pronounced, it covers forfeitures as well as disabilities. In any other case the certificate applies only to disabilities.
- B. A conviction of the crime or the offense specified on the face of this certificate shall NOT cause automatic forfeiture of any license, permit, employment or franchise, including the right to register for or vote at an election, or automatic forfeiture of any other right or privilege, held by the eligible offender and covered by the certificate. Nor shall such conviction be deemed to be a conviction within the meaning of any provision of law that imposes, by reason of a conviction, a bar to any employment, a disability to exercise any right or a disability to apply for or to receive any license, permit or other authority or privilege, covered by the certificate. Provided, however, that no such certificate shall apply, or be construed so as to apply, to the right of such person to retain or to be eligible for public office.
- C. A conviction of the crime or the offense specified on the face of this certificate shall NOT prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified on the reverse side of this certificate as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or renew any license, permit or other authority or privilege.

December 14, 1999

Samuel W. Seymour, Esq.
Sullivan and Cromwell
125 Broad Street
New York, NY 10004-2498

Re: Bankers Trust Company

Dear Mr. Seymour:

Enclosed is a Corrected Copy of the Certificate of Relief from Disabilities issued by the Board of Parole for your client, Bankers Trust Company.

The Certificate of Relief from Disabilities which we forwarded to you on December 2, 1999 incorrectly stated a section of the Surrogate Court's Procedure Act. The enclosed Certificate correctly states the section in question.

Sincerely,

JAMES V. MURRAY
Director
Executive Clemency Bureau

Enclosure
JVM:crc

Exhibit 36



STATE OF NEW YORK **CORRECTED COPY**
CERTIFICATE OF RELIEF FROM DISABILITIES

FOR COURT OR BOARD OF PAROLE
 District, File, or other identifying no.
99CR250
CR-99-164

This certificate is issued to the holder to grant relief from all or certain enumerated disabilities, forfeitures, or bars to his employment automatically imposed by law by reason of his conviction of the crime or of the offense specified herein.

This certificate shall NOT be deemed nor construed to be a pardon.

SEE REVERSE SIDE FOR EXPLANATION OF THE LAW GOVERNING THIS CERTIFICATE

The Original Certificate is to be presented to the person to whom awarded. One copy is to be retained by the issuing agency, and one copy is to be filed with the N.Y.S. Dir. of Criminal Justice Services, Executive Park, Stuyvesant Plaza, Albany, N.Y. 12203

1. For use by DCJS		HOLDER OF CERTIFICATE		3. NYSD Number (If not known, have fingerprints to DCJS. If fingerprints are unobtainable, complete items 15-18 below.)	
2. Last Name		First Name		Middle Initial	
Bankers Trust Company					
4. Crime or offense for which convicted			5. Date of arrest		6. Date of sentence
Making False Entries in Bank Books and Records (3 counts)			N/A		7/26/99
7. Court of disposition (Court, Part, Term, Venue)			8. Certificate issued by:		
United States District Court Southern District of New York			<input type="checkbox"/> COURT INDICATED IN NO. 7 <input checked="" type="checkbox"/> STATE BOARD OF PAROLE		
9. Date this certificate issued			10. If this Certificate replaces Certificate of Relief From Disabilities previously issued, give date of previous Certificate.		
December 2, 1999			Date: <input checked="" type="checkbox"/> Not Applicable		

11. CHECK ONE BOX ONLY

This certificate shall:

- a. Relieve the holder of all forfeitures, and of all disabilities and bars to employment, excluding the right to obtain or to be eligible for public office, by virtue of the fact that this certificate is issued at the time of sentence. The Date of Sentence in this case must agree with the Date Certificate Issued.
- b. Relieve the holder of all disabilities and bars to employment, excluding the right to be eligible for public office.
- c. Relieve the holder of the forfeitures, disabilities or bars hereinafter enumerated S.C.P.A. Section 70(4)(b)

12. This certificate shall be considered permanent.

This certificate shall be considered temporary until _____ After this date, unless revoked earlier by the issuing court or parole board, this certificate shall be considered permanent. A person who knowingly uses or attempts to use a revoked certificate in order to obtain or exercise any right or privilege that he would not be entitled to obtain or to exercise without valid certificate shall be guilty of a misdemeanor.

13. Signature of issuing official(s)		Print or type name(s)		14. Title(s)	
<i>Joseph J. Gawloski</i>		Joseph J. Gawloski		COMMISSIONER	
<i>Daizze D. Bouey</i>		Daizze D. Bouey		COMMISSIONER	
<i>R. Guy Vizzie</i>		R. Guy Vizzie		COMMISSIONER	

Complete the following for DCJS, only if fingerprints are not obtainable

15. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		16. Color		17. Height ft. in.		18. Date of Birth (Month, Day, Year)	
---	--	-----------	--	-----------------------	--	--------------------------------------	--

Form SP-33 (Rev. 9/72)

I HEREBY CERTIFY, PURSUANT TO SECTION 2103 OF THE C.P.L.R., THAT I AM AN ATTORNEY ADMITTED TO PRACTICE BEFORE THE COURTS OF THE STATE OF NEW YORK THAT I HAVE COMPARED THIS COPY WITH THE ORIGINAL THEREOF, AND THAT IT IS A TRUE AND COMPLETE COPY OF THAT ORIGINAL.

[Signature]

LAWS GOVERNING THE ISSUANCE OF CERTIFICATES OF RELIEF FROM DISABILITIES

(The laws governing the issuance of certificates of relief from disabilities are set forth in Article 23 of the New York State Correction Law. The excerpts below summarize certain portions of those laws and are set forth merely for convenience. They are not intended as administrative interpretations and they do not relieve any party of full knowledge of and compliance with the applicable provisions of law.)

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RIGHTS OF RELIEF FROM DISABILITIES

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- B. A conviction of the crime or the offense specified on the face of this certificate shall **NOT** cause automatic forfeiture of any license, permit, employment or franchise, including the right to register for or vote at an election, or automatic forfeiture of any other right or privilege, held by the eligible offender and covered by the certificate. Nor shall such conviction be deemed to be a conviction within the meaning of any provision of law that imposes, by reason of a conviction, a bar to any employment, a disability to exercise any right or a disability to apply for or to receive any license, permit or other authority or privilege, covered by the certificate. Provided, however, that no such certificate shall apply, or be construed so as to apply, to the right of such person to retain or to be eligible for public office.
- C. A conviction of the crime or the offense specified on the face of this certificate shall **NOT** prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified on the reverse side of this certificate as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or renew any license, permit or other authority or privilege.

At an IAS Part 03 of the Supreme Court of the State of New York, County of New York, at the Courthouse thereof, located at 60 Center Street, New York, on 3/20/03

NOTION SIGNIFICANCE # 005

PRESENT:

HON. Bethan

Index No. 99/121823

IN THE MATTER OF THE APPLICATION OF BANKERS TRUST COMPANY OF NEW YORK (f.k.a. DEUTSCHE BANK TRUST COMPANY) and BANKERS TRUST COMPANY,

ORDER TO SHOW CAUSE

Petitioners,

For substitution of fiduciary relationships pursuant to New York Banking Law 154

UPON the annexed Affirmation of Jason E. Bogli, an associate of the firm of Dowd & Marotta, LLC, attorneys for Suzanne McCormick, co-executor and principal beneficiary in the Estate of Edmund J. McCormick dated March 14, 2003; the affidavit of Suzanne McCormick dated March 11, 2003, and upon all prior papers and proceedings heretofore had herein, and sufficient cause appearing:

LET BANKERS TRUST COMPANY OF NEW YORK, DEUTSCHE BANK TRUST COMPANY, and BANKERS TRUST COMPANY or any party interested in the Estate of Edmund J. McCormick show cause at the Courthouse, located at 60 Center Street, New York, NY, room 248 on the 24th day of April, 2003 at 9:30 a.m. or as soon thereafter as counsel may be heard, pursuant to CPLR 5015 (a) for an order vacating the default on Bankers Trust's motion to substitute Bankers Trust Company of New York as fiduciary for Bankers Trust as it applies to the Estate of Edmund J. McCormick, to unseal the entire record in this matter, and for

STATE OF NEW YORK

SURROGATE'S COURT: COUNTY OF WESTCHESTER

In the Matter of the Estate of

EDMUND J. McCORMICK,

Deceased.

**RENUNCIATION OF
APPOINTMENT BY
NOMINATED CO-TRUSTEE**

The undersigned, DEUTSCHE BANK TRUST COMPANY AMERICAS (formerly known as Bankers Trust Company), as nominated co-trustee under Article FOURTEENTH of the Will of Edmund J. McCormick, deceased, with its principal office at 130 Liberty Street, New York, New York, 10006, currently operating out of an alternate location at 31 West 52nd Street, New York, New York, 10019, and DEUTSCHE BANK TRUST COMPANY NEW YORK (formerly known as Bankers Trust Company of New York), as substitute fiduciary to Bankers Trust Company with respect to all future fiduciary relationships under an order of the Supreme Court of the State of New York, New York County, dated December 17, 1999, with its principal office at 280 Park Avenue, New York, New York, 10017,

I hereby renounce appointment and relinquish all right to letters of trusteeship under the Will of
Edmund J. McCormick, admitted to probate by the Surrogate's Court of Westchester County,
New York on January 25, 1989.

Dated New York, New York
April 18, 2003.

DEUTSCHE BANK TRUST COMPANY
AMERICAS

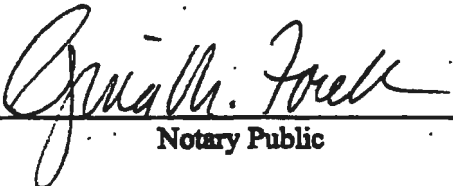
By: Phyllis May Fineman

DEUTSCHE BANK TRUST COMPANY
NEW YORK

By: Ullrich

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On April 18, 2003, before me, the undersigned, a Notary Public in and for the State of New York, personally appeared Phyllis May Fineman, to me known who, being by me duly sworn, did depose and say that s/he resides at Ardsey, New York; that s/he is an officer, to wit, a Director of DEUTSCHE BANK TRUST COMPANY AMERICAS, the corporation described in and which executed the above instrument; and that s/he signed his/her name thereto by order of the board of directors of said corporation.



Notary Public

GINA M FORELLA
Notary Public, State of New York
No. 4988179
Qualified in Westchester County
Commission Expires November 04 2005

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: 1AS PART 3**

**In the Matter of the Application of BANKERS
TRUST COMPANY OF NEW YORK
(fka DEUTSCHE BANK TRUST COMPANY)
and BANKERS TRUST COMPANY,**

Index No. 121823/1999

DECISION and ORDER

Petitioners,

-against-

**For substitution of fiduciary relationships
pursuant to NY Banking Law §154.**

FILED
AUG 18 2003
COUNTY CLERK'S OFFICE
NEW YORK

KARLA MOSKOWITZ, J.:

Bankers Trust Company ("BTCo"; now known as Deutsche Bank Trust Company Americas) and Bankers Trust Company of New York ("Trust Co"; now known as Deutsche Bank Trust Company New York) (collectively, the "Bank"), pursuant to Section 154 of the Banking Law (the "\$154 proceeding"), commenced this proceeding in 1999 seeking to substitute Trust Co for BTCo as fiduciary with respect to certain designated trusts and estates then under administration by BTCo and also with respect to all future fiduciary relationships. As discussed *infra*, the court granted that application in 1999.

Suzanne McCormick, the executor and principal beneficiary under the will of her late husband, Edmund J. McCormick (the "Estate"), in which BTCo is also named as an executor, moves for an order, pursuant to CPLR 5015(a)-(s) vacating the prior orders of this court substituting Trust Co for BTCo, to the extent that these orders affect the Estate; (b) unsealing certain records in this proceeding that this court ordered impounded and sealed; and (c) clarifying whether the prior orders substituting Trust Co for BTCo affect the Estate.

In response, the Bank cross-moves for an order, pursuant to 22 NYCRR §130-1, imposing sanctions upon McCormick and her attorneys.

McCormick has withdrawn her application in all respects. However, the Bank has refused to withdraw its request for sanctions. Upon due consideration, the court denies the Bank's cross motion.

BACKGROUND

The §154 Proceeding

In commencing this §154 proceeding, the Bank candidly acknowledged that its request was triggered by BTCo's guilty plea in the United States District Court, Southern District of New York, in March 1999, to a three-count criminal felony information charging it with making false entries on the books and records of a federally regulated bank. The Bank sought the substitution because it would likely otherwise face challenges, pursuant to Surrogate's Court Procedure Act §707, to BTCo's qualifications to act as fiduciary, including claims that it is ineligible for appointment and/or continued service as a trustee or executor.¹

In its petition, the Bank sought substitution for two identified classes of fiduciary relationships: (a) BTCo's fiduciary relationships existing on the date of the petition as listed in the petition; and (b) every fiduciary relationship taking effect after the date of the hearing of the petition. All persons identified in the Bank's petition in the §154 proceeding received notice and the court appointed a Guardian ad litem.

¹ SCPA § 707, entitled "eligibility to receive letters," provides in pertinent part that "letters may issue to a natural person or to a person authorized by law to be a fiduciary except as follows: 1. Persons ineligible . . . (d) a felon, (e) one who does not possess the qualifications required of a fiduciary by reason of . . . dishonesty, imprudence . . . or who is otherwise unfit for the execution of the office."

A number of orders ensued. The primary order, dated December 17, 1999 (Hon. Barry A. Ozier, the "December 17 1999 Order"), granted the Bank's application to substitute Trust Co for BTCs for every fiduciary relationship listed in the petition as well as every fiduciary relationship taking effect after the date of the order, except: (a) those relationships for which objections to substitution had been filed; and (b) the relationships specifically identified in the petition as excepted from the requested substitution. In this regard, the December 17 1999 Order states:

Parent to NYBL 154, Trust Co. is hereby substituted for BTCs in every existing fiduciary capacity designated in the verified petition and in every fiduciary capacity relating to estates, guardianships, conservatorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trust and or fiduciary agencies which may take effect hereafter.

The December 17 1999 Order further directed the impounding of the list of designees, without disclosure to, inspection by or copying of to any persons other than: (a) individuals associated with or employed by the court; or (b) individuals with a court order granting permission to inspect the exhibit.

The McCormick Will and Estate

Edmund J. McCormick died in November 1983. His will appointed various executors, including BTCs and his widow, the movant here. It is not disputed that Edmund J. McCormick's will provides for a trust that has not been funded. The parties disagree over the rather esoteric issue of whether that trust currently exists, will never exist or whether it is a fiduciary relationship that will come into existence at some time in the future.

McCormick's relationship with the Bank, since her husband's death more than 14 years

... has been hostile and acrimonious. She accuses the Bank of grossly mismanaging the Estate and wasting or dissipating millions of dollars. There are at least two proceedings pertaining to the Estate now pending in the Surrogate Court, Westchester County (File No. 3522/88, Surrogate James D. Paganis). There is an accounting proceeding that BTCo and other executors of the Estate commenced in 1996 that McCormick has contested. In her Objections, dated September 10, 1998, McCormick asserted that BTCo committed numerous breaches of its fiduciary duties. The Surrogate disposed of some of those objections on motion; he held that others present factual issues not capable of resolution by motion. Also pending before the Surrogate is a motion McCormick made in 2002 seeking to remove BTCo as an executor of the Estate. Finally, McCormick commenced an Article 78 proceeding in this court, entitled McCormick v. Deutsche Trust Company (Supreme Court, New York County, Index No. 104600/03, Hon. Harold Becker) against the Bank, the New York State Banking Department, and the New York State Board of Parole, seeking a judgment annulling: (1) a Certificate of Relief from Disqualification issued to BTCo by the Parole Board on December 2, 1999 pursuant to Article 23 of the Correction Law; (2) the Department of Banking's approval of certain name changes made by the Bank (i.e., BTCo's change of name to Deutsche Bank Trust Company Americas and Trust Co's change of name to Deutsche Bank Trust Company New York) effective April 15, 2002; and (3) the Bank's authorization to do business in the State of New York.²

This Application

Proceeding under the assumption that the Estate was piloted by the court's orders of

² In May 2003, the Article 78 petitioner discontinued the proceeding without prejudice, pursuant to stipulation.

substitution in the §154 proceeding, McCormick asked the court to vacate its orders as they pertain to the Estate and to permit her to file objections because she was never served with notice of the §154 proceeding.¹

In the papers submitted in connection with this application, McCormick detailed the Bank's alleged wrongdoings in its handling of matters pertaining to the Estate. Additionally, McCormick repeatedly referred to the Bank as a felon (going, among other things, to criminal conviction and its alleged involvement in the Bayon investigation) and comments on Deutsche Bank's reported involvement in various World War II atrocities, including events concerning "Nazi Gold."

McCormick claimed that the trust provided for in her late husband's will is a trust that will take effect in the future and, therefore, appears to be affected by the language of the December 17 1999 Order. The Bank, on the other hand, claimed that the trust will never come into existence because the Estate is insolvent. The Bank also maintained that the Estate cannot, in any event, be affected by the orders in the §154 proceeding because the Estate was not identified on any of the lists.

After receiving McCormick's application, counsel for the Bank represented in writing to McCormick's counsel that: (a) McCormick was never served with notice of the §154 proceeding; (b) no substitution of fiduciary occurred with respect to the Estate; and (c) the rights of the Estate remain entirely unaffected by the outcome of the §154 proceeding. Based on these representations, the Bank demanded that McCormick withdraw her application. Although

¹ Although denominated a motion to vacate a default, in many respects, this application is more similar to a motion for leave to intervene.

... counsel early received this application, ultimately they were unable to reach an agreement.

Two days before oral argument, the Bank delivered a document to McCormick's counsel, entitled "Renunciation of Appointment of Nominated Co-Trustee" (the "Renunciation"). Both Deutsche Bank Trust Company Americas (formerly BTCa) and Deutsche Bank Trust Company New York (formerly Trust Co) executed the Renunciation on April 18, 2003. As a result of the Renunciation, there is no longer any possibility that either the original corporate fiduciary - BTCa - or its substitute fiduciary - Trust Co - will ever serve as trustee of any trust arising under the Estate. Thus, as a result of the Renunciation, the Estate is unaffected by the §154 proceeding.

At oral argument, the court requisitioned the sealed files in the §154 proceeding in order to determine if the Estate was formally named in any of the lists. The court reviewed the files and found the Estate was not listed and the court, on the record, so advised the parties. At that time, McCormick's counsel advised the court that his client was withdrawing her application in all respects. The Bank, however, refused to withdraw its demand for sanctions, claiming that McCormick's bringing of the application and her insistence on thereafter continuing to press it, was frivolous.

DECISION

22 NYCRR Part 130-1.1 defines conduct as frivolous if:

- (1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law;
- (2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or
- (3) it asserts material factual statements that are false.

... In determining whether the conduct undertaken was frivolous, the court

shall consider, among other issues the circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct, and whether or not the conduct was continued when its lack of legal or factual basis was apparent, should have been apparent, or was brought to the attention of counsel or the party.

The Bank argues that McCormick (and her counsel) gave violated each of these obligations, because the proof establishes that: (a) they chose to proceed with the application even though the Bank and the Guardian ad litem in the §154 proceeding informed McCormick and her counsel that the Estate was not affected by the orders issued in the proceeding; (b) chose to prosecute the application without any legitimate reason for disclosure of the sealed records; and (c), in their submissions in support of the application, McCormick and her attorneys made numerous inflammatory and false statements about the Bank irrelevant to the relief sought.

Additionally, the Bank claims that petitioner's application is part of a larger campaign to discredit and harm the Bank in several courts and other arenas. The bank asserts that many allegations in this application are the same as those she asserted in her removal application and in her objections to BTC's accounting, including repeated allegations of the Bank's financial dishonesty, criminal behavior and other wrongdoing. The Bank contends that her accusations are not relevant to this case and are alleged for the sole purpose of inflaming the court and harassing the Bank.

McCormick counters that her allegations are not frivolous in any respect. She submits that the Bank can hardly complain about her allegations of the Bank's criminal conviction, since those allegations are true and were the basis for which the Bank commenced this §154 proceeding in the first place. Her allegations concerning Deutsche Bank's World War II activities, McCormick submits, are similarly well publicized. McCormick submits that these

plans are not extraneous or irrelevant, but, rather, go to the very heart of the issue of the Bank's fitness to serve as a fiduciary.

McCormick submits that, given the broad language of the prior court orders in this proceeding, together with her inability to review the file contents to determine if the Estate was mentioned in any of the filings or the service lists, she was compelled to apply to the court for permission to review the impounded portions of the file to determine whether the Estate was affected. In the alternative here, the Bank delivered the Remuneration to McCormick's counsel, providing any need for McCormick to review the sealed files, because the Bank will never act as fiduciary under the trust in question.

The Bank's application for sanctions pursuant to 22 NYCRR § 130-1.1 is denied. The Bank has failed to convince the court that McCormick's application lacked merit as a matter of law. In this regard, while the Remuneration now negates any possibility that the Bank, or any of its affiliates, will act as a fiduciary of the trust, it is not abundantly clear, as the Bank suggests, that the Estate, in the absence of the Remuneration, would not have been affected by the orders in the §154 proceeding. Even if McCormick's application would have been denied, that does not mean it was unreasonably frivolous (*see, e.g., Northern Atlantic Bank, National Div. v. I.R. 14 Plaza Co.*, 229 AD2d 764, 766; *Care v. Assenstam Housing Authority*, 174 Misc2d 189 [Sup. Ct. Albany County 1997]). The court is similarly unable to find that McCormick's motive, in bringing this application, was to harass or injure the Bank. Also, while certain statements in McCormick's papers may be inaccurate and hypobolic, there, without more, do not support the conclusion that the application was frivolous. The court concludes that the Bank did not sufficiently prove that McCormick engaged in the sort of conduct that calls for the imposition of

Case (see e.g., *Ball v. New York*, 96 NY2d 811; *Banknote Assoc. v. Truong*, 294 AD2d

149)

CONCLUSION

It is ORDERED that the petition by Suzanne McCormick is withdrawn; and it is further ORDERED that the cross motion by Bankers Trust Company (now known as Deutsche Bank Trust Company Americas) and Bankers Trust Company of New York (now known as Deutsche Bank Trust Company New York) for an award of sanctions is denied.

Dated: August 12, 2003

ENTER:



J.S.C.

FILED

AUG 18 2003

COUNTY CLERK'S OFFICE
NEW YORK

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

----- X

In the matter of the application of
[redacted]
of the Last Will and
[redacted]

EDMUND J. MCCORMICK,

Deceased,

for an Order Authorizing Payment
to said Bankers Trust Company of
Debts Alleged to be Owing to It
by said Decedent.

:
: PETITION FOR PAYMENT
: OF EXECUTOR'S
: INDIVIDUAL CLAIMS
: PURSUANT TO SCPA 1805

: File No.: 3522/1988

----- X

TO THE SURROGATE'S COURT OF THE COUNTY OF WESTCHESTER:

The petition of BANKERS TRUST COMPANY respectfully
shows:

1. The petitioner, Bankers Trust Company, is a corporation organized under the laws of the State of New York and has its principal office at 280 Park Avenue, New York, New York.
2. Edmund J. McCormick (the "Decedent") died on November 27, 1988, a resident of the County of Westchester, State of New York. Decedent's Last Will and Testament dated November 20, 1985 (the "Will") names petitioner and the following persons as co-Executors: Suzanne V. McCormick,

Exhibit 40

Edmund J. McCormick, Jr., Alfred S. Howes and Herman Markowitz.

3. This Court issued Letters Testamentary to petitioner and its co-Executors on January 25, 1989, which Letters Testamentary are still in effect.

4. The names and addresses of the beneficiaries of the decedent's residuary estate under the Will are as follows:

<u>Beneficiary</u>	<u>Nature of Interest</u>
Suzanne V. McCormick 231 Clinton Avenue Dobbs Ferry, New York 10522	Executrix and Nominated Trustee; Distributee; Devisee; Bequest of tangibles; cash bequest; Bequest of stock; Life beneficiary of trust of one-half of residuary estate.
Edmund J. McCormick, Jr. 714 West Shore Trail Sparta, New Jersey 07871	Executor and Nominated Trustee; Distributee; Cash bequest; One-fifth interest in one-half residuary estate; Remainderman of trust of one-half residuary estate.
David McCormick P.O. Box 242 Wyckoff, New Jersey 07481	Distributee; Cash bequest; One-fifth interest in one-half residuary estate; Remainderman of trust of one-half residuary estate.
Ann Ritter 234 Lake Shore Drive Marstons Mills, MA 02648	Distributee; Cash bequest; One-fifth interest in one-half residuary estate; Remainderman of trust

Dennis B. McCormick
84 Crest Road
Wellesley, MA 02181

of one-half residuary
estate.

Laurie McKeever
19418 Winged Foot Circle
Northridge, CA 91326

Distributee; Cash
bequest; One-fifth
interest in one-half
residuary estate;
Remainderman of trust
of one-half residuary
estate.

David Cook McCormick
c/o Dennis B. McCormick
84 Crest Road
Wellesley, MA 02181

Cash bequest; Con-
tingent remainderman
of trust of one-half
residuary estate.

Jason McCormick
c/o Dennis B. McCormick
84 Crest Road
Wellesley, MA 02181

Cash bequest; Con-
tingent remainderman
of trust of one-half
residuary estate.

Eric Ritter
c/o Ann Ritter
234 Lake Shore Drive
Marstons Mills, MA 02648

Contingent remainderman
of trust of one-half
residuary estate.

Devin Ritter
c/o Ann Ritter
234 Lake Shore Drive
Marstons Mills, MA 02648

Contingent remainderman
of trust of one-half
residuary estate.

5. At the time of his death, the decedent was personally indebted to the petitioner in the sum of Two Hundred Fifty-Seven Thousand Dollars (\$257,000), principal amount, bearing interest at a rate of one-half percent (1/2%) per annum over the petitioner's Prime Lending Rate in

effect from time to time, as evidenced by a promissory note dated May 14, 1987, a copy of which is annexed to and made a part of this petition.

6. Petitioner's Prime Lending Rate in effect since the date of the last payment of interest is ten and one-half percent (10 1/2%).

7. Accrued interest on such note from the date of the last payment of interest through January 31, 1989 is Seven Thousand One Hundred Twenty-Eight Dollars and Eighteen Cents (\$7,128.18).

8. Per diem interest on the decedent's personal loan at the current rate is \$78.52.

9. No part of said debt has been paid and the full amount thereof is now due and owing to the petitioner.

10. At the time of his death, the decedent's wholly-owned corporation, McCormick Management Consultants, Inc. (the "Company") was indebted to the petitioner in the sum of Three Hundred Thirteen Thousand Dollars (\$313,000), principal amount, having paid Seven Thousand Dollars (\$7,000) of an original principal amount of Three Hundred Twenty Thousand Dollars (\$320,000) prior to the decedent's death. The remaining principal amount of Three Hundred Thirteen Thousand Dollars (\$313,000) bears interest at a rate of one percent (1%) per annum over the petitioner's

Prime Lending Rate in effect from time to time, as evidenced by a corporate promissory note dated August 22, 1986, a copy of which is annexed to and made a part of this petition.

11. Also annexed to and made a part of this petition is a copy of the decedent's unlimited personal guarantee of the Company's promissory note dated May 6, 1986, which guarantee, by its terms, is fully enforceable against the estate of the decedent.

12. The Company has substantially no assets and has defaulted on its obligations under the terms of the note. Therefore, the petitioner seeks payment of its debt by the estate of the decedent pursuant to the decedent's unlimited personal guarantee.

13. Petitioner's Prime Lending Rate in effect since the date of the last payment of interest is ten and one-half percent (10 1/2%).

14. Accrued interest on such note from the date of the last payment of interest through January 31, 1989 is Nine Thousand One Hundred Five Dollars and Seventy-eight Cents (\$9,105.78).

15. Per diem interest on the Company's loan at the current rate is \$99.98.

16. No part of said debt has been paid other than Seven Thousand Dollars (\$7,000) principal amount, referred

to in paragraph 10, and the full amount of the remaining principal and accrued interest is now due and owing to the petitioner.

17. Petitioner knows of no offsets to either debt.

18. There are sufficient assets in the estate of the decedent to pay all just claims having priority over the petitioner's debts.

19. Petitioner's co-Executors have agreed to payment of the debts due and owing to the petitioner as evidenced by their written consent, which is annexed to and made a part of this petition.

20. There are no persons other than those mentioned hereinbefore who have an interest in this application or proceeding.

21. The foregoing payments are subject to the right of any interested person to file objections to said payments upon the settlement of petitioner's account as co-Executor.

22. Petitioner has made no previous application for the relief herein requested to this or any other court.


WHEREFORE, petitioner prays for an order authorizing payment by the Executors of the Estate of Edmund J. McCormick, to itself of each debt described above,

comprising principal, accrued interest as calculated from the date of the last payment of interest through January 31, 1989 at the rate set forth herein and per diem interest from February 1, 1989 through such date as such debt is paid in full at the rate set forth herein, and for such other and further relief as the Court may deem just and proper.

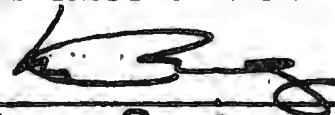
DATED: 2/7/89

BANKERS TRUST COMPANY

ATTEST:




John J. McGowan
Vice President

By 
Title: Vice President

WHITE & CASE
Attorneys for Petitioner
1155 Avenue of the Americas
New York, New York 10036
(212) 819-8200

STATE OF NEW YORK)
COUNTY OF Westchester) ss.:

Michael G. Philip, being duly sworn
states that he resides at 11 Westview Ave, White Plains, NY ;
that he is the Vice President of Bankers
Trust Company, the petitioner in this proceeding and that
the foregoing petition is true to his own knowledge, except
as to matters therein stated to be alleged on information
and belief and as to those matters he believes it to be
true.



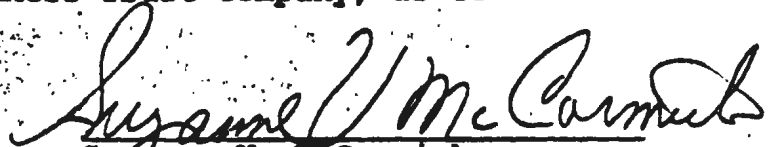
Sworn to before me this
8th day of February, 1989.

Valerie Juster Berman
Notary Public

VALERIE JUSTER BERMAN
Notary Public, State of New York
No. 31-490588
Qualified in Westchester County
Commission Expires May 3, 1990

**CONSENT TO PAYMENT OF
EXECUTOR'S INDIVIDUAL CLAIMS**

We, the undersigned, as Executors of the Estate of Edmund J. McCormick, deceased, do hereby consent to the payment from the Estate of such of the decedent's debts as may be found by the Surrogate's Court of Westchester County to be due and owing to Bankers Trust Company, as co-Executor.


Suzanne V. McCormick


Edmund J. McCormick, Jr.


Alfred S. Howes


Herman Markowitz

1 110,000.00 New York, N.Y. August 22 19 85

To Account For date, for value received, the undersigned promises to

pay to the order of BANKERS TRUST COMPANY (which is called the "Bank")

three hundred twenty thousand and 00/100 Dollars

at the office of the Bank at 44 South Broadway, White Plains, N.Y.

and to pay interest on the unpaid principal amount hereof until paid at a rate per annum (computed on the basis of a 360-day year and the actual number of days elapsed) which shall be equal to 1.0% per annum above the Bank's Prime Lending Rate, which is the rate as announced by the Bank, from time to time, at its principal office as its Prime Lending Rate for domestic commercial loans, and which rate shall change when and as said Prime Lending Rate shall change, such interest to be payable at the end of each calendar quarter. Month. The Prime Lending Rate in effect at the Bank upon the date of this Note is 8.0% per annum. quarter.

[Faint, mostly illegible text, likely a boilerplate or legal disclaimer section.]

McGerrick Management Consultants, Inc.

By Edmund McGerrick Chairman & President

This _____ Day _____ 19__ By _____ Title _____

Please have your Bankers Trust Company standing A/C No.

Bus. Van. PPH
Comp. No. 414

In consideration of financial accommodations given or to be given or continued to **McCormick Management Consultants, Inc.** hereinafter called "Borrower", by **BANKERS TRUST COMPANY, New York, N. Y.**, having branch offices inside the United States, hereinafter called "Bank", the undersigned irrevocably and unconditionally guarantee to the Bank, payment when due, whether by acceleration or otherwise, of any and all liabilities of the Borrower to the Bank, together with all interest thereon and all attorneys' fees, costs and expenses of collection incurred by the Bank in enforcing any of such liabilities.

The term "liabilities of the Borrower" shall include all liabilities, direct or contingent, joint, several or independent of the Borrower now or hereafter existing, due or to become due to, or held or to be held by, the Bank for its own account or as agent for another or others, whether created directly or acquired by assignment or otherwise in the event that the Borrower is a partnership, the term "liabilities of the Borrower" as used herein shall include all liabilities of any successor partnership or partnerships in the Bank, direct or contingent, joint, several or independent, now or hereafter existing, due or to become due to, or held or to be held by, the Bank, whether created directly or acquired by assignment or otherwise.

The undersigned waive notice of acceptance of this guaranty and notice of any liability to which it may apply, and waive presentment, demand of payment, protest, notice of dishonor or nonpayment of any such liabilities, suit or taking other action by the Bank against, and any other notice to, any party liable thereon (including the undersigned).

The Bank may at any time and from time to time (whether or not after revocation or termination of this guaranty) without the consent of, or notice (except as shall be required by applicable statute and cannot be waived) to, the undersigned, without incurring responsibility to the undersigned, without impairing or releasing the obligations of the undersigned hereunder, upon or without any terms or conditions and in whole or in part:

(1) change the manner, place or terms of payment, and/or change or extend the time of payment of, renew or alter, any liability of the Borrower, any security therefor, or any liability incurred directly or indirectly in respect thereof, and the guaranty herein made shall apply to the liabilities of the Borrower as so changed, extended, renewed or altered;

(2) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged or mortgaged to secure, or hereafter securing, the liabilities hereby guaranteed or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any effect thereagainst;

(3) exercise or refrain from exercising any rights against the Borrower or others (including the undersigned) or otherwise act or refrain from acting;

(4) settle or compromise any liability hereby guaranteed, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of the Borrower to creditors of the Borrower other than the Bank and the undersigned; and

(5) apply any sums by whomsoever paid or hereafter realized to any liability or liabilities of the Borrower to the Bank regardless of what liability or liabilities of the Borrower remain unpaid.

No invalidity, irregularity or unenforceability of all or any part of the liabilities hereby guaranteed or of any security therefor shall affect, impair or be a defense to this guaranty, and this guaranty is a primary obligation of the undersigned.

This guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. As to each of the undersigned, this guaranty shall continue until written notice of revocation signed by such undersigned, or until written notice of the death of such undersigned shall in each case have been actually received by the Bank, notwithstanding a revocation by, or the death of, or complete or partial release for any cause of, any one or more of the remainder of the undersigned, or of the Borrower or of anyone liable in any manner for the

liabilities hereby guaranteed or for the liabilities (including those hereunder) incurred directly or indirectly in respect thereof or hereof, and notwithstanding the dissolution, termination or non-use, decrease or change in personnel of any one or more of the undersigned which may be partnerships. No revocation or termination hereof shall affect in any manner rights arising under this guaranty with respect to (a) liabilities which shall have been created, contracted, assumed or assumed prior to receipt by the Bank of written notice of such revocation or termination or (b) liabilities which shall have been created, contracted, assumed or incurred after receipt of such written notice pursuant to any contract entered into by the Bank prior to receipt of such notice; and the sole effect of revocation or termination hereof shall be to exclude from this guaranty liabilities thereafter arising which are unconnected with liabilities then existing or transactions heretofore entered into.

All notices provided to be given to the Bank herein shall be sent by registered or certified mail, return receipt requested.

Any and all rights and claims of the undersigned against the Borrower or any of its property, arising by reason of any payment by the undersigned to the Bank pursuant to the provisions of this guaranty, shall be subordinate and subject in right of payment to the prior payment in full of all liabilities of the Borrower to the Bank.

The Bank at all times and from time to time shall have the right to require the undersigned to deliver to the Bank as security for the liabilities of the undersigned hereunder, collateral security, original or additional, satisfactory to the Bank.

All property of the undersigned shall be held by the Bank subject to a lien and a security interest in favor of the Bank, as security for any and all liabilities of the undersigned to the Bank. The term "property of the undersigned" shall include all property of every description, now or hereafter in the possession or custody of or in transit to the Bank for any purpose, including safekeeping, collection or pledge, for account of the undersigned, or as in which the undersigned may have any right or power. The balance of every account of the undersigned with, and each claim of the undersigned against, the Bank existing from time to time, shall be subject to a lien and subject to be set off against any and all liabilities of the undersigned to the Bank, and the Bank may at any time or from time to time at its option and without notice appropriate and apply toward the payment of any of such liabilities the balance of each such account of the undersigned with, and each such claim of the undersigned against, the Bank. The Bank may at any time and from time to time, without notice, transfer into its own name or that of its nominee any of the property of the undersigned.

Upon the happening of any of the following events: the death or insolvency (however evidenced) of the Borrower or any person (including the undersigned) who is liable directly or indirectly in respect of any of the liabilities of the Borrower, or an adverse change in the financial condition of the Borrower or any aforesaid person, or suspension of business of the Borrower or any aforesaid person, or the issuance of any warrant, process or order of attachment, garnishment or other lien and/or the filing of a lien as a result thereof against any of the property of the Borrower or any aforesaid person, or the making by the Borrower or any aforesaid person of an assignment for the benefit of creditors, or a trustee or receiver being appointed for the Borrower or any aforesaid person or for any property of any of them, or any proceeding being commenced by or against the Borrower or any aforesaid person under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, receivership, liquidation or dissolution law or statute, or it appears that any representation in any financial or other statement of the Borrower or any

the Bank deems itself insecure—then and in any such event, and at any time thereafter, the Bank may, without notice to the Borrower or any aforesaid person, make the liabilities of the Borrower to the Bank, whether or not then due, immediately due and payable hereunder as to the undersigned, and the Bank shall be entitled to enforce the obligations of the undersigned hereunder.

Upon nonpayment when due of any of the liabilities of the Borrower or the undersigned to the Bank, the Bank shall have the right from time to time, without advertisement or demand upon or notice to the Borrower or the undersigned or right of redemption except as shall be required by applicable statute and cannot be waived, to sell, re-sell, assign, transfer and deliver all or part of said property of the undersigned, at any brokers' board or exchange or at public or private sale, for cash or on credit or for future delivery, and in connection therewith may grant options and may impose reasonable conditions with no requiring any purchaser of any stock so sold to represent that such stock is purchased for investment purposes only. Upon each such sale the Bank, unless prohibited by provision of any applicable statute which cannot be waived, may purchase all or any part of said property being sold, free from and discharged of all taxes, claims, right of redemption and equities of the undersigned.

In the case of each such sale, or of any proceedings to collect any liabilities of the undersigned to the Bank, the undersigned shall pay all costs and expenses of every kind for collection, sale or delivery, including reasonable attorneys' fees, and after deducting such costs and expenses from the proceeds of sale or collection, the Bank may apply any residue to pay any of such liabilities of the undersigned, who shall continue liable for any deficiency, with interest.

If claim is ever made upon the Bank for repayment or recovery of any amount or amounts received by the Bank in payment or on account of any of the liabilities of the Borrower and the Bank repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over the Bank or any of its property, or (b) any settlement or compromise of any such claim effected by the Bank with any such claimant (including the Borrower), then and in such event the undersigned agree that any such judgment, decree, order, settlement or compromise shall be binding upon the undersigned, notwithstanding any revocation hereof or the cancellation of any note or other instrument evidencing any liability of the Borrower, and the undersigned shall be and remain liable to the Bank hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Bank.

Any acknowledgment or new promise, whether by payment of principal or interest or otherwise and whether by the Borrower or others (including the undersigned), with respect to any of the liabilities of the Borrower shall, if the statute of limitations in favor of the undersigned against the Bank shall have commenced to run, toll the running of such statute of limitations and, if the period of such statute of limitations shall have expired, prevent the operation of such statute of limitations.

The Bank shall have no responsibility for ascertaining, nor for informing the undersigned with respect to, nor be required to take any action concerning, any maturities, calls, conversions, exchanges, offers, tenders or similar matters relating to any of the property of the undersigned (whether or not the Bank has, or is deemed to have, knowledge of any of the aforesaid), provided that the Bank shall endeavor to take such action as may be requested or authorized by the undersigned if the

property of the undersigned in question and the relative request or authorization is made in writing and is received by the Bank in due time.

The Bank shall not be bound to take any steps necessary to preserve any rights in any of the property of the undersigned against third parties who may be liable in connection therewith, and the undersigned hereby agrees to take such steps. The Bank may nevertheless at any time (a) take any action it may deem appropriate for the care or preservation of such property or of any rights of the undersigned or the Bank therein, (b) demand, sue for, collect or receive any money or property at any time due, payable or receivable on account of or in exchange for any property of the undersigned, (c) compromise and settle with any person liable on such property, or (d) extend the time of payment or otherwise change the terms thereof as to any party liable thereon, all without notice to, and without incurring responsibility to, and without affecting any of the liabilities hereunder of, the undersigned. The undersigned shall pay to the Bank all costs and expenses, including filing fees and attorneys' fees, incurred by the Bank in connection with the custody, care, preservation or collection of any of the property of the undersigned or in seeking to enforce any of the liabilities or obligations of the undersigned hereunder.

The Bank shall have the right, at any time and from time to time, without notice, to (i) transfer into its own name or that of its nominee any of the property of the undersigned; (ii) notify any obligor on any of such property to make payment to the Bank of any amounts due thereon; and or (iii) take control of any proceeds of any of such property.

No delay on the part of the Bank in exercising any of its options, powers or rights, or partial or single exercise thereof, shall constitute a waiver thereof. No waiver of any of its rights hereunder, and no modification or amendment of this guaranty, shall be deemed to be made by the Bank unless the same shall be in writing, duly signed on behalf of the Bank, and each such waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the rights of the Bank or the obligations of the undersigned to the Bank in any other respect at any other time.

The undersigned waive the right of trial by jury in the event of any litigation between the parties hereto in respect of any matter arising under this guaranty and agree that, should the Bank bring any judicial proceedings in relation to any such matter, the undersigned will not interpose any counterclaim or setoff of any nature.

This guaranty and the rights and obligations of the Bank and of the undersigned hereunder shall be governed and construed in accordance with the law of the State of New York; and this guaranty is binding upon the undersigned, his, their or its executors, administrators, successors or assigns, and shall inure to the benefit of the Bank, its successors or assigns. In the event that the Bank brings any action or suit in any court of record of New York State or the Federal Government to enforce any or all liabilities of the undersigned hereunder, service of process may be made upon the undersigned by mailing a copy of the summons to the undersigned at the address below set forth.

The undersigned, if more than one, shall be jointly and severally liable hereunder and the term "undersigned" wherever used herein shall mean the undersigned or any one or more of them. Anyone signing this guaranty shall be bound hereby, whether or not anyone else signs this guaranty at any time. The term "Bank" includes any agent of the Bank acting for it.

Dated: May 5 1986

X *Edmund McGorlick*
Edmund McGorlick

303 South Broadway, Tarrytown, NY

(Address)

(Address)

(Address)

By: *[Signature]*
Corp. Res. Off.

INDEX NO.

STATE OF NEW YORK
SURROGATE'S COURT
COUNTY OF WESTCHESTER

SUR:

PLEASE TAKE NOTICE that a.....
.....
of which the within is a true copy, has
been made herein and was duly entered
and filed in the office of the Clerk of the

.....
.....
on the..... day of.....
19.....

WHITE & CASE

Attorneys for.....
1155 Avenue of the Americas,
Borough of Manhattan,
New York City.

To.....
Attorney for.....

In the Matter of the Applica-
tion of BANKERS TRUST COMPANY
co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased,

for an Order Authorizing Pay-
ment to said Bankers Trust
Company of Debts Alleged to
be Owing to It by said
Decedent.

ORIGINAL PETITION FOR PAYMENT
OF EXECUTOR'S INDIVIDUAL
CLAIMS PURSUANT TO SCPA 1805

WHITE & CASE
ATTORNEYS FOR Petitioner.....

1155 Avenue of the Americas
Borough of Manhattan
New York City
819-8200

FILED
SURROGATE'S COURT

MAR 7 1989

WESTCHESTER COUNTY

Roll 58 No. 63

At a Surrogate's Court held in and for the County of Westchester at the County Courthouse in said County on the 6th day of March, 1989.

P R E S E N T:

HONORABLE

Evans V. Brewster, Surrogate.

----- -x

In the Matter of the Application of BANKERS TRUST COMPANY, co-Executor of the Last Will and Testament of

EDMUND J. McCORMICK,

Deceased,

for an Order Authorizing Payment to said Bankers Trust Company of a Debt Alleged to be Owing to It by said Decedent.

----- -x

ORDER FOR PAYMENT OF EXECUTOR'S INDIVIDUAL CLAIM

File No. 3522/1988

~~BANKERS TRUST COMPANY, a co-Executor of the Last Will and Testament of Edmund J. McCormick, deceased~~ (the "Decedent"), having presented its petition dated the 7th day of February, 1989, praying for permission to pay itself the debts owed to it by the decedent at the time of his death and by McCormick Management Company, the decedent's wholly-owned corporation, for which debt the decedent was

personally liable under the terms of an unlimited guarantee, and no notice to any person whose rights or interests would be affected by said payments being required, and it appearing to the satisfaction of this Court that sufficient reasons exist for granting said petition, it is hereby

On motion of White & Case, Esqs., attorneys for the petitioner,

ORDERED, that this application be and the same hereby is entertained; and it is further

ORDERED, that the Executors of the Last Will and Testament of the above-named decedent, pay to petitioner that certain debt in the sum of Two Hundred Fifty Seven Thousand Dollars (\$257,000), principal amount, evidenced by a promissory note dated the 14th day of May, 1987, a copy of which is annexed to the petition herein, with interest accrued through January 31, 1989 of Seven Thousand One Hundred Twenty-eight Dollars and Eighteen cents (\$7,128.18) and with further interest accrued from the 1st day of February, 1989 through such date as the debt is paid in full at the rate of eleven percent (11%) per annum; and it is further

ORDERED, that the Executors of the Last Will and Testament of the above-named decedent, pay to petitioner

that certain debt in the sum of Three Hundred Thirteen Thousand Dollars (\$313,000), principal amount, evidenced by a promissory note dated the 22nd day of August, 1986, and unlimited guarantee dated the 6th day of May, 1986, copies of which are annexed to the petition herein, with interest accrued through January 31, 1989 of Nine Thousand One Hundred Five Dollars and Seventy-eight Cents (\$9,105.78) and with further interest accrued from the 1st day of February, 1989 through such date as the debt is paid in full at the rate of eleven and one-half percent per annum; and it is further

ORDERED, that the Executors of the Last Will and Testament of decedent, be and they hereby are authorized and directed to make the aforesaid payments from the decedent's estate; and it is further

ORDERED, that if said debt is disallowed, in whole or in part, on the settlement of the petitioner's account, the sums directed to be paid herein, or any part thereof which is so disallowed, shall be repaid to the Estate by the petitioner, with interest from the date of payment.


Surrogate

Correction
I affirm that the foregoing statements are true under penalties of perjury.

my that: I am the attorney of record, or of counsel with the attorney(s) of record, for
I have read the annexed
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information
and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon
knowledge, is based upon the following:

The reason I make this affirmation instead of

is

Dated: _____

STATE OF NEW YORK, COUNTY OF _____

ss: _____
being sworn say: I am

(Print signer's name below signature)

In the action herein, I have read the annexed
know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on
information and belief, and as to those matters I believe them to be true.

of

I know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on
information and belief, and as to those matters I believe them to be true.

My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on _____

(Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF _____

age and reside at _____

On _____, 19____, I served a true copy of the annexed
in the following manner:
being sworn say: I am not a party to the action, am over 18 years of

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within
the State of New York, addressed to the last known address of the addressee(s) as indicated below:

by delivering the same personally to the persons and at the addresses indicated below:

by transmitting the same to the attorney by electronic means to the telephone number or other station or other limitation designated by the
attorney for that purpose. In doing so I received a signal from the equipment of the attorney indicating that the transmission was received,
and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the
U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

by depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest time
designated by the overnight delivery service for overnight delivery. The address and delivery services are indicated below:

Overnight
Delivery
Service

Sworn to before me on _____

19____

(Print signer's name below signature)

FILED
SURROGATE'S COURT

MAR 7 1989

WESTCHESTER COUNTY

Suzanne McCormick

Concert Pianist

123 West Evans Lane
Manalapan, Florida 33462

Via Fax And
Certified Mail #Z 319 704 705
Return Receipt Requested

April 15, 1996

Mr. William J. Wilkie
Managing Director
Bankers Trust Company
280 Park Avenue
New York, New York 10017

Dear Mr. Wilkie,

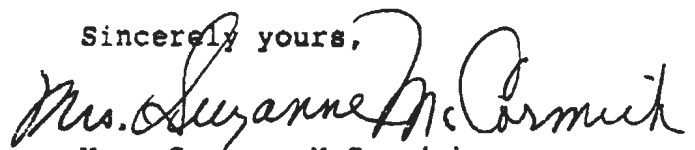
I'm responding to your letter dated April 2, 1996, postmarked April 5, 1996 which was not received in Dobbs Ferry until April 11th and then faxed to me in Florida.

In reviewing the situation of the estate, I THOROUGHLY OBJECT TO ANY PAYMENTS BEING MADE OUT OF THE ESTATE UNTIL THIS ESTATE HAS BEEN FULLY REVIEWED BY THE SURROGATE JUDGE AND A COMPLETE AND INDEPENDENT ACCOUNTING HAS BEEN ACCOMPLISHED. I must contact the Surrogate Judge concerning this matter, since I strongly feel he should approve any and all payments. I emphasize that you surely must put more importance on my vote as a widow - main beneficiary and executrix against two questionable executors, which you failed to do both in the case of the embezzlement and Cooper River. I did not vote for either one.

My husband left a substantial estate which was greatly mishandled and I have not been given due respect. Read the "WILL" again if you haven't yet and you have to totally agree with me. There was no respect given to my husband's wishes!

If you are going to take votes from questionable co-executors against me as you have, you will have to answer for your actions. Mr. Wilkie, would this money be considered principal or interest?

Sincerely yours,


Mrs. Suzanne McCormick

SM/fv

cc:

Herman Markowitz, CPA, Certified Mail #Z 319 704 706
Edmund J. McCormick, Jr. Certified Mail #Z 319 704 707

Exhibit 42



Bankers Trust Company

The Private Bank
280 Park Avenue, New York, New York 10017

William J. Wilkie
Managing Director
Telephone: 212-454-2325

Mailing Address:
P.O. Box 1990, Church Street Station
New York, New York 10008

April 30, 1996

Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Re: Estate of Edmund J. McCormick 215820

Dear Mrs. McCormick:

With reference to our proposal to make a payment on account of legal fees in the amount of \$250,000 to White & Case for services rendered to your husband's estate, we have now received the approvals of Messrs. McCormick and Markowitz. I have noted your comments as expressed in your letter to me of April 15, 1996, but since we believe equity and fairness support this payment we are proceeding with the approval of a majority of the executors. Your non participation in this decision is noted.

Once again, it would have been preferable for all the executors to act together, but we are proceeding since your decision did not provide us with any substantive reasons for further delay. I wish to emphasize that should a Court ultimately decide White & Case was paid in excess of the Court's allowance, White & Case will return the excess with interest.

This expenditure is a principal charge.

Sincerely,

William J. Wilkie
Managing Director

WJW:wj

cc: Edmund Jr. McCormick Jr.
Herman Markowitz

Exhibit 43

DELEGATION BY INDIVIDUAL EXECUTOR

WHEREAS, the Last Will and Testament of Edmund J. McCormick, dated November 20, 1985, provides in Article FOURTEENTH as follows:

Any individual Executor or Trustee may from time to time delegate his or her powers, duties and discretions, whether discretionary or ministerial, to any other Executor or Trustee, with the power to revoke any such delegation at will

; and

WHEREAS, I, SUZANNE V. McCORMICK, am an Executor of the estate of Edmund J. McCormick, deceased, named in Article FOURTEENTH of said Will; and

WHEREAS, for my convenience I wish to delegate all of my powers, duties and discretions as an Executor of said Will to BANKERS TRUST COMPANY, another of the Executors named in Article FOURTEENTH;

NOW THEREFORE, I hereby delegate to BANKERS TRUST COMPANY all such powers, duties and discretions, whether discretionary or ministerial, without limitation, and specifically empower BANKERS TRUST COMPANY to sign on my behalf any contracts and agreements entered into by the

Prepared by 

estate, until such time as I notify BANKERS TRUST COMPANY in writing that this delegation is revoked.

Suzanne V. McCormick
Suzanne V. McCormick

STATE OF NEW YORK)
 : ss. :
COUNTY OF WESTCHESTER)

On the 28th day of March, 1990, before me personally came Suzanne V. McCormick, to me known and known to me to be the person who signed the foregoing document, and she acknowledged to me that she signed the same.



Notary Public

MARY McQUILLEN
Notary Public, State of New York
No. 31-4842773
Qualified in New York County
Commission Expires Oct. 3, 1990

DELEGATION BY INDIVIDUAL EXECUTOR

WHEREAS, the Last Will and Testament of Edmund J. McCormick, dated November 20, 1985, provides in Article FOURTEENTH as follows:

Any individual Executor or Trustee may from time to time delegate his or her powers, duties and discretions, whether discretionary or ministerial, to any other Executor or Trustee, with the power to revoke any such delegation at will

; and

WHEREAS, I, SUZANNE V. MCCORMICK, am an Executor of the estate of Edmund J. McCormick, deceased, named in Article FOURTEENTH of said Will; and

WHEREAS, for my convenience I wish to delegate all of my powers, duties and discretions as an Executor of said Will to BANKERS TRUST COMPANY, another of the Executors named in Article FOURTEENTH;

NOW THEREFORE, I hereby delegate to BANKERS TRUST COMPANY all such powers, duties and discretions, whether discretionary or ministerial, without limitation, and specifically empower BANKERS TRUST COMPANY to sign on my behalf any contracts and agreements entered into by the

WVC 0002654

Exhibit 45

THE LAW OFFICE OF
JASON BOGLI, L.L.C.

198-R Salmon Brook Street
Granby, CT 06035
860-413-9230 phone/fax
jboglilaw@cox.net

Jason Bogli
Attorney at Law
Admitted:
Connecticut and New York

June 23, 2004

VIA FIRST CLASS MAIL/ DELIVERY CONFIRMATION

Judge Pagones
Dutchess Surrogate Court
10 Market Street
Poughkeepsie, New York 12601

Attn.: Ken Bernstein, Assistant to Judge Pagones
& John Atherton, Chief Clerk

Re: Estate of Edmund J. McCormick
Index No. 3522-1988

2004 JUN 23 PM 12:21
RECEIVED
JUN 23 2004

Dear Your Honor:

I write to follow up on several items to which I have not received a response from the Court including copies of prior court orders, a response from the court on briefing schedules on pending motions, and Suzanne McCormick's request for a computerized record. I am forwarding this correspondence to the Court of Appeals as that Court is currently undertaking a jurisdictional inquiry of this matter, and to the administrative Judge for remedial action.

First, I have not received a response to my request of last year for a copy of the order which gives jurisdiction to the Surrogates Court of Dutchess. Suzanne McCormick has never been provided with an order or explanation as to how this case came from Rockland County and finally to Dutchess County. I searched the file on March 25, 2004 after our only court conference and did not find any such order, and no order has been entered or served on Suzanne McCormick. This order is important since the last court (Rockland) executed Bankers Trust's application for a settlement immediately before the case was transferred to this Court. Thereafter this Court granted that order without providing Suzanne McCormick an opportunity to respond (although such an opportunity was promised).

I write to also follow up on correspondence dated April 20, 2004 which requested: 1) briefing schedule on un-briefed applications to the Court made while

Exhibit 46

the case was in transit from Westchester County to Rockland County and from Rockland County to Dutchess County; 2) On April 20, 2004 of this year I also wrote to you to requesting that a computerized docket be maintained on this case. This case is extraordinary due to its complexity and the numerous transfers.

We are concerned about maintaining an accurate court record since the Clerk of this Court instructed us to file papers with Westchester County, the original recused court. Our understanding is that Westchester County would then be responsible for forwarding the documents to Poughkeepsie. We are concerned that without a computerized record, the parties will not be able to confirm whether Westchester has forwarded documents to this court and whether they are part of the Court record in Poughkeepsie. It is our belief that this Court should make decisions based upon a complete record, and that Poughkeepsie should create a record of the documents which are filed in this Court.

Therefore, Suzanne McCormick requests that this Court: 1) provided with an order or explanation as to how this case came from Rockland County and finally to Dutchess County; 2) provide a briefing schedule on un-briefed applications to the Court made while the case was in transit from Westchester County to Rockland County and from Rockland County to Dutchess County; 3) enter an order requesting that a computerized docket be maintained on this case. This case is extraordinary due to its complexity and the numerous transfers. .

Respectfully submitted,


Jason Bogli

cc.

State of New York
Court of Appeals
20 Eagle Street
Albany, New York
12207-1095

Judge Nicolai, Administrative Judge
111 Dr. Martin Luther King Jr. Blvd. - 11th floor
White Plains, NY 10601



JAMES D. PAGONES
SURROGATE JUDGE AND AJSC

STATE OF NEW YORK
SURROGATE'S COURT OF THE COUNTY OF DUTCHESS
COUNTY COURTHOUSE
10 MARKET STREET
POUGHKEEPSIE, N.Y. 12601

PHONE (845) 486-2235
FAX (845) 486-2234

JOHN J. ATHERTON
CHIEF CLERK

KAREN A. JOHNSON
DEPUTY CHIEF CLERK

June 29, 2004

Jason Bolgi, Esq.
198-R Salmon Brook Street
Granby, CT 06035

Re: Estate of Edmund J. McCormick
Index No. 3522/1988

Dear Mr. Bolgi:

On June 28, 2004 the Court received your letter dated June 23, 2004 in the above proceeding. In response to your specific requests, please be advised that, as was explained to you and the other attorneys in this estate, this proceeding was assigned to Judge Pagonas as Acting Surrogate, Westchester County by Administrative Judge Honorable Francis A. Nicolai. A copy of Justice Nicolai's assignment is enclosed. You request a briefing schedule on "un-briefed applications." You were advised at the April conference regarding this estate that all motions pending before the Court would be deemed fully submitted on April 30, 2004. I am not aware of any "un-briefed applications" pending before the Court.

You have repeatedly requested that the Court maintain a computerized docket of this proceeding. You have been advised that this matter remains a Westchester County proceeding and any issues regarding docketing must be addressed to that Court. You have been provided full and unfettered access to all of the documents filed in this proceeding.

Sincerely,

Kenneth M. Bernstein
Principal Court Attorney

KMB:im
Enclosure

Exhibit 47

cc:

David Keyko, Esq.
Pillsbury Winthrop, LLP
1540 Broadway
New York, NY 10004

David P. Geis, Esq.
Phipps and Geis
Attorneys for Co-Executor
Edmund J. McCormick, Jr.
430 William Hilton Parkway, Suite 505
Hilton Head, SC 29926

Adria de Landri, Esq.
Brief Justice Carmen Kesselman & Kleinman, LLP
Attorneys for Co-Executor Herman Markowitz
805 Third Avenue, Suite 600
New York, NY 10022

Charles S. Berry, Esq.
Arnold & Porter
Attorneys for Co-Executor Alfred S. Howes
335 Madison Avenue, 26th Floor
New York, NY 10017-4605

Brian Carey, Esq.
McElroy, Deutsch and Mulvaney
Wall Street Plaza
88 Pine Street
New York, NY 10005

Winthrop Rutherford, Esq.
White & Case, LLP
1155 Avenue of the Americas
New York, NY 10036

ARTICLE 25 RECORDS AND RECORDING

Section

- 2501 Records to be kept by court; general requirements.
 2502 Books to be kept by clerk.
 2504 Wills to be retained after probate; exceptions.
 2505 Transmission of wills of non-domiciliaries and domiciliaries of another county before probate.
 2506 Recording wills proved within the state.
 2507 Reception of wills for safekeeping.
 2508 Filing of will of decedent.

§ 2501. Records to be kept by court; general requirements.

1. The clerk of the court shall keep a record of and be responsible for the proper indexing, filing or recording, as the case may be, collating, arranging, restoring and preserving of all records, documents, books, maps, instruments and other matter specified in this article or by other requirement of law heretofore or hereafter deposited, filed or recorded, of all matters specified by this article or by other requirement of law.

2. He shall upon payment of the fees required by law exemplify or certify all records and papers filed or recorded and shall search and certify as to records or papers in custody of the court or that they cannot be found.

3. Records shall be kept by means of record books, cards, files or any other system, process, form or combination thereof, as may be prescribed by CPLR 9703 or directed by the court together with such appropriate index or reference system, and such topic, item or other subdivision or arrangement as deemed appropriate or convenient. When the clerk is directed to keep a record book it may be kept by one or more of the methods prescribed as may be currently utilized by the court for the purpose.

4. The expense of keeping the records required by law to be kept shall be a charge upon the county, state or other governmental unit or agency providing funds for administration of the court as may be provided by law.

5. When filing is required the paper filed shall be entered in the proper minute book, and date of filing with fee, if any, noted on the paper.

6. When recording of a paper is required an accurate copy thereof shall be made of the complete content of the paper by entry at length in a record book in plain and legible handwriting or by printing or typewriting or photographic or microphotographic or other process or any combination thereof or by making a record in any other form or process which provides or will produce an accurate copy of the paper.

7. Records and papers which are sealed and withheld from public inspection as required by law or directed by the court shall thereafter be opened only to the extent as may be authorized by the court.

8. All books and records other than those sealed are open to inspection of any person at reasonable times.

9. Records and papers relating to a proceeding and entered in the minute book shall be preserved as permanent records of the court, except as disposition is authorized by section 89 of the judiciary law.

§2502. Books to be kept by clerk.

The clerk shall keep and maintain:

1. A record book properly indexed in which shall be entered a description of every proceeding with proper entries under each denoting the papers filed, orders and decrees made and the steps taken therein, with the dates of filing and recording the several papers in the proceeding.

2. Such other record books, properly indexed, as may be necessary or convenient to record at length any documents required by law to be recorded.

3. A court and trust fund register in which shall be entered a reference to any proceeding in which a decree or order directs a deposit of money, the date thereof, the amount thereof, the amount so deposited, any receipt therefor and the name of the person to and for whom the deposit is made.

4. A record book, properly indexed, with proper entries denoting the name and file number of the estate and the date of filing any informal account or any release pursuant to 2202.

5. Such other books as the chief administrator of the courts in each department or the court in each county may direct to be kept.

(Eff. 7/18/90, Ch. 623, L. 1990)

§2503. What must be recorded.

(REPEALED, Eff. 7/18/90, Ch. 623, L. 1990)

§2504. Wills to be retained after probate; exceptions.

1. A written will which has been admitted to probate must remain in the court, except where the will is on file in a court or public office of another state or country under the laws of which it cannot be removed.

2. When it appears that the laws of another jurisdiction require the production of an original will before the provisions thereof become effective in such jurisdiction the court may cause any original will on file in its office to be sent to any court which, or to any officer of such jurisdiction who, under the laws thereof, is empowered to receive the will for probate, or may deliver the will to any person interested in the probate thereof in such jurisdiction or to his fiduciary in such manner and upon such terms as it deems proper for the preservation of the will and the protection of other parties interested in the estate.

3. In the case of a joint will which has been admitted to probate in this state the court of such county may under such terms as it deems proper transmit the original joint will to the surrogate's court of any other county in this state for probate as the will of any other signer thereof. It shall be the duty of the court of such other county to keep a true copy thereof in its office and thereafter to return the original will to the surrogate's court of the county of original probate.



STATE OF NEW YORK
UNIFIED COURT SYSTEM
NINTH JUDICIAL DISTRICT
RICHARD J. DARONCO
WESTCHESTER COUNTY COURTHOUSE
111 DR. MARTIN LUTHER KING, JR. BLVD.
WHITE PLAINS, NEW YORK 10601
(914) 995-4100
FAX: (914) 995-4111

JUL - 2 2004

JONATHAN LIPPMAN
Chief Administrative Judge

JAN H. PLUMADORE
Deputy Chief Administrative Judge

July 1, 2004

FRANCIS A. NICOLAI
District Administrative Judge
Ninth Judicial District

TOMME BERG
Executive Assistant

Jason Bogli, Esq.
198-R Salmon Brook Street
Granby, CT 06035

Re: Estate of Edmund J. McCormick
Index No. 3522/88

Dear Mr. Bogli:

The copy of your letter dated June 23, 2004 to Dutchess County Surrogate James D. Pagonis that was forwarded to Justice Francis A. Nicolai, Administrative Judge of the Ninth Judicial District, and received at his chambers on June 28, 2004 has, in turn, been referred to me for response. Justice Nicolai's records reflect that the above-referenced matter was transferred upon the recusal of Westchester Surrogate Anthony A. Scarpino to Rockland County Surrogate Alfred J. Weiner to sit as an Acting Westchester County Surrogate. Upon Judge Weiner's recusal the matter was transferred to Dutchess County Surrogate James D. Pagonis who is also sitting as an Acting Westchester Surrogate. Copies of the transfer orders are attached herewith.

Very truly yours,


James Garfein
Chief Court Attorney

JG:em

c: Surrogate James D. Pagonis
Dutchess County Surrogate Court
10 Market Street
Poughkeepsie, NY 12601

Exhibit 49

9-ADMJ-0402A-03

The HON. FRANCIS A. NICOLAI, pursuant to the authority vested in him as Administrative Judge of the Ninth Judicial District,

DOES HEREBY:

REASSIGN the following cases presently pending in Surrogate's Court, Westchester County, to the HON. JAMES D. PAGONES, Acting Surrogate, Westchester County, until disposition.

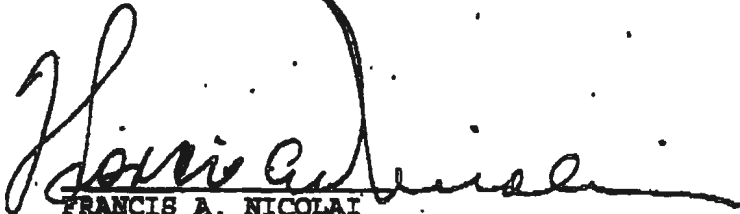
In the Matter of the Petition of Bankers Trust Company and Herman Markowitz for settlement of their account as co-executors of the Last Will and Testament of Edmund J. McCormick, Deceased and for a direction pursuant to SCPA §2215 for a repayment of excess distributions to an interested party, and for recovery of estate assets due from Edmund J. McCormick, Jr. and Bank Street Investment, Inc. d/b/a McCormick Organization

and

In the Matter of the Proceeding by Alfred S. Howes for settlement of account as co-executor of the Last Will and Testament of Edmund J. McCormick, Deceased

File No. 3522/88 .

This assignment is in addition to his other duties and reassignments.


FRANCIS A. NICOLAI
Administrative Judge
Ninth Judicial District

Dated: White Plains, New York
April 2, 2003,



JONATHAN LIPPMAN
Chief Administrative Judge

JAN H. PLUMADORE
Deputy Chief Administrative Judge

KB,
For our file. I
made extra copies.

UDP

JUL - 2 2004

FRANCIS A. NICOLAI
District Administrative Judge
Ninth Judicial District

TOMME BERG
Executive Assistant

Jason Bogli, Esq.
198-R Salmon Brook Street
Granby, CT 06035

Re: Estate of Edmund J. McCormick
Index No. 3522/88

Dear Mr. Bogli:

The copy of your letter dated June 23, 2004 to Dutchess County Surrogate James D. Pagones that was forwarded to Justice Francis A. Nicolai, Administrative Judge of the Ninth Judicial District, and received at his chambers on June 28, 2004 has, in turn, been referred to me for response. Justice Nicolai's records reflect that the above-referenced matter was transferred upon the recusal of Westchester Surrogate Anthony A. Scarpino to Rockland County Surrogate Alfred J. Weiner to sit as an Acting Westchester County Surrogate. Upon Judge Weiner's recusal the matter was transferred to Dutchess County Surrogate James D. Pagones who is also sitting as an Acting Westchester Surrogate. Copies of the transfer orders are attached herewith.

Very truly yours,


James Garfein
Chief Court Attorney

JG:em

c: Surrogate James D. Pagones
Dutchess County Surrogate Court
10 Market Street
Poughkeepsie, NY 12601

STATE OF NEW YORK

SURROGATE'S COURT: COUNTY OF WESTCHESTER

**In the Matter of the Petition of BANKERS
TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of Their
Account as Co-Executors of the Last Will
and Testament of**

EDMUND J. McCORMICK,

Deceased,

**and for a direction pursuant to SCPA
§ 2215 for repayment of excess
distributions to an interested party, and for
recovery of Estate assets due from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.**

**In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will
and Testament of**

EDMUND J. McCORMICK,

Deceased.

File No. 3522-1988

STIPULATION AND ORDER

This Stipulation and Order (this "Agreement") is entered into as of

_____ , 2001 by and among DAVID McCORMICK, ANN RITTER, DENNIS

B. McCORMICK, LAURIE McCORMICK, DAVID COOKE McCORMICK, JASON

Exhibit 50

McCORMICK, and HELEN LEAVER (collectively, "Objectants"), EDMUND J. McCORMICK, JR., individually and as co-executor of the Will (the "Will") of Edmund J. McCormick, deceased, ALFRED S. HOWES, individually and as co-executor of the Will, HERMAN MARKOWITZ, individually and as co-executor of the Will, BANKERS TRUST COMPANY ("Bankers Trust"), individually and as co-executor of the Will, WHITE & CASE, LLP ("White & Case"), and CATENACCI, MARKOWITZ, DELANDRI, ROSNER & CO.

WITNESSETH:

WHEREAS, the Will was admitted to probate by the Surrogate's Court of Westchester County, New York on January 25, 1989, whereupon letters testamentary thereon issued to Suzanne V. McCormick, Edmund J. McCormick, Jr. ("Ed, Jr."), Alfred S. Howes, Herman Markowitz, and Bankers Trust (collectively, the "executors"); and

WHEREAS, co-executors Bankers Trust and Herman Markowitz (collectively with Alfred Howes, the "accounting executors") filed with the Surrogate's Court of Westchester County, New York a Petition for Voluntary Accounting by Co-Executors and for Additional Relief, dated November 14, 1996, and a Final Account of their proceedings as co-executors of the estate for the period from November 27, 1988 to July 25, 1996; and

WHEREAS, said Petition and Final Account were amended by Affirmation in Support of Petitioners' Amendment of Petition and Account to Reflect Rejected Claims as Unpaid Administrative Expenses, sworn to on September 23, 1997 (the November 14, 1996

PILLSBURY WINTHROP LLP

ONE BATTERY PARK PLAZA NEW YORK, NY 10004-1499 212.858.1000 Fax: 212.858.1500

November 28, 2001

Robert M. DiBella, Esq.
Principal Court Attorney
Westchester County Surrogate's Court
140 Grand Street
White Plains, New York 10604-3307

David G. Keyko, Esq.
Partner
212.858.1604
Dkeyko@pillsburywinthrop.com

Re: Estate of Edmund J. McCormick - File No. 3522/1988

Dear Mr. DiBella:

As we discussed during the conference on Monday, the Stipulation and Order in the McCormick matter was put on a web site -- "victimsofnsurrogatescourt.org" -- in violation of the confidentiality provisions contained in the Order. We have enclosed some of the materials on that web site, including a statement suggesting that the recent settlement with the McCormick children was a product of coercion and extortion of pro se litigants with the collusion of the Surrogate's Court.

We note that the web site on which the enclosed materials appear is the very same web site that is cited in picketing materials distributed by Suzanne McCormick. A copy of a leaflet distributed by Mrs. McCormick and her associates is also enclosed.

Finally, we believe that David Velderman could not have disclosed the settlement agreement to third parties. Federal Express confirmed that it never delivered the package to Mr. Velderman. Rather, at our request, Federal Express retrieved the package we sent to Mr. Velderman before it was delivered to him and returned the package to us unopened. (Even if Mr. Velderman had somehow received the package and Federal Express retrieved it directly from him, the packaging for Federal Express envelopes is such that, if Mr. Velderman had viewed the contents of the package, it would have been apparent.)

Exhibit 51

COPY

PILLSBURY WINTHROP

Should you have any questions concerning the enclosed materials, please do not hesitate to call me.

Respectfully submitted,


David G. Keyku

cc: Anne T. Schwab, Esq. (w/o encl.)
Marc S. Oxman, Esq. (w/o encl.)
David P. Geis, Esq. (w/o encl.)
Stephen B. Kosselman, Esq. (w/o encl.)
Charles G. Berry, Esq. (w/o encl.)
Winthrop Rutherford, Jr. (w/o encl.)
Dennis McCormick (w/o encl.)
David W. McCormick (w/o encl.)
Ann Ritter (w/o encl.)
Laurie McCormick (w/o encl.)
David Cooke McCormick (w/o encl.)
Jason McCormick (w/o encl.)
David Velderman (w/o encl.)
Helen Leaver (w/o encl.)

Deutsche Bank

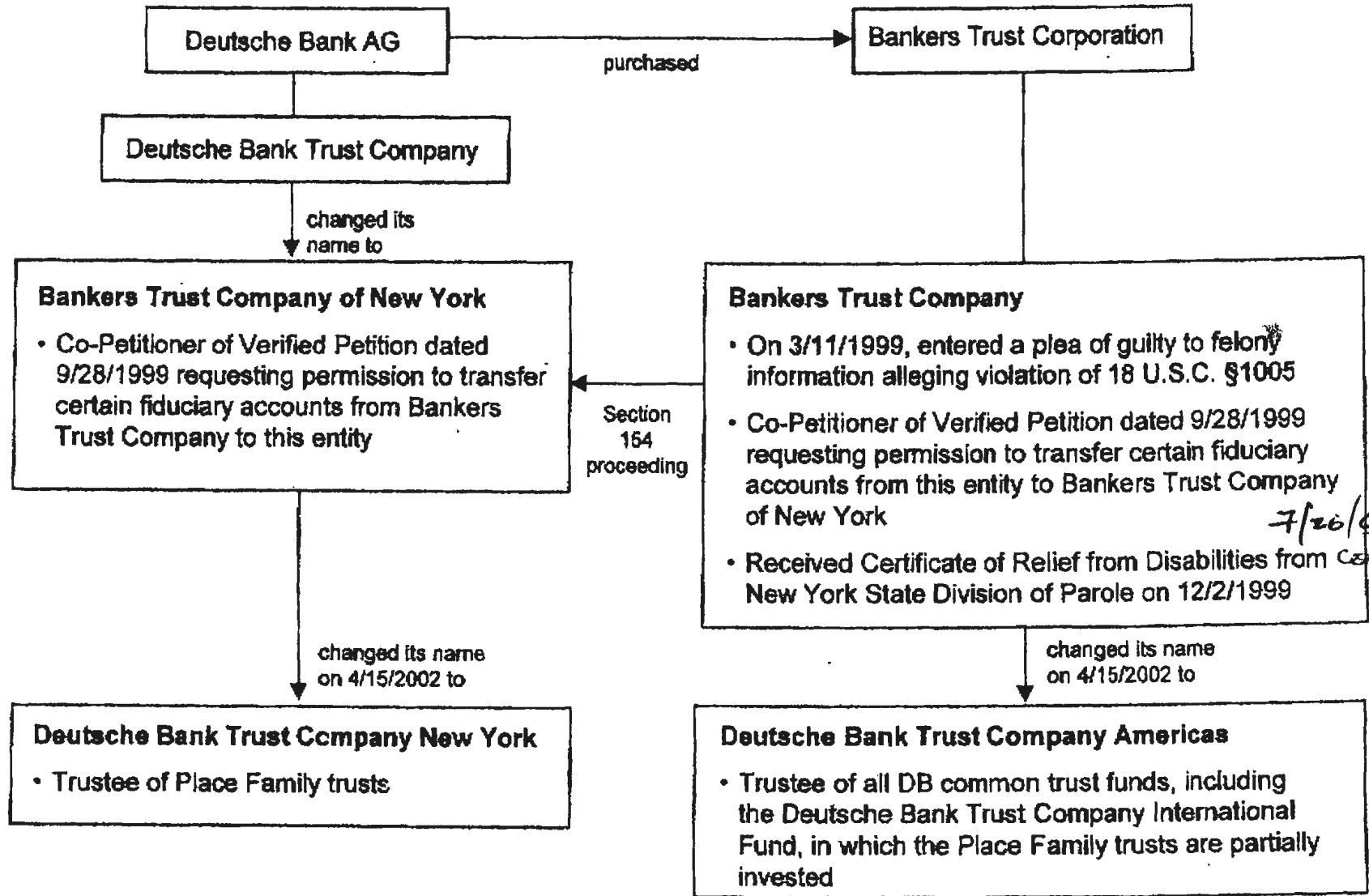


Exhibit 52

United States Treasury

15-51 P 706,266,613
000



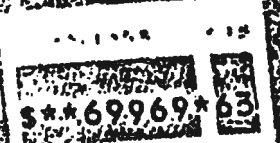
Pay to
the order of

12 21 90 46 PHILADELPHIA, PA
091-05-2765 12 SO F MCCO BRKHAVN 13 TAX REF

EDMUND J & SUZANNE MCCORMICK
SUZANNE MCCORMICK & BANKERS TRUST 17
231 CLINTON AVE
DOBBS FERRY NY 10522

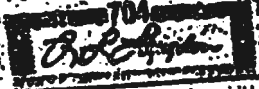
Check No. 2030-34066717

12/86



VOID AFTER ONE YEAR

VOID AFTER ONE YEAR



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⑈ 20306⑈ ⑆000000518⑆ 340667173⑈ 041290⑈

SURROGATE'S COURT
COUNTY OF WESTCHESTER

***** X
ACCOUNTING OF
BANKERS TRUST COMPANY, SUZANNE V.
McCORMICK, EDMUND J. McCORMICK, JR.,
ALFRED S. HOWES AND HERMAN MARKOWITZ*
as Executors of the Will of
EDMUND J. McCORMICK,
deceased
***** X

File No. 3522-1988

FINAL
ACCOUNT OF
PROCEEDINGS

TO THE SURROGATE'S COURT OF THE COUNTY OF WESTCHESTER:

The undersigned do hereby render the account of proceedings
as follows:

Period of account from November 27, 1988, date of death, to
July 25, 1996. This is a Final Account.

PRINCIPAL

SCHEDULE "A"

STATEMENT OF PRINCIPAL RECEIVED

SCHEDULE "A-1"

STATEMENT OF INCREASES ON SALES,
LIQUIDATION OR DISTRIBUTION

SCHEDULE "B"

STATEMENT OF DECREASES DUE TO SALES, LIQUIDATION,
COLLECTION, DISTRIBUTION OR UNCOLLECTIBILITY

SCHEDULE "C"

STATEMENT OF FUNERAL AND ADMINISTRATION
EXPENSES CHARGEABLE TO PRINCIPAL

SCHEDULE A
(Continued)

Assets on hand as of November 27, 1988,
date of death of Edmund J. McCormick and
herein accounted for: (continued)

<u>Miscellaneous</u>	<u>Inventory Value</u>
Blue Cross/Blue Shield reimbursement re Dr. Moore & Habif	\$ 170.52
Blue Cross/Blue Shield reimbursement re various providers	75.60
Blue Cross/Blue Shield reimbursement re Dr. Habif	35.12
Blue Cross/Blue Shield reimbursement re Hospital care	229.46
Blue Cross/Blue Shield reimbursement re Dr. Rush	154.08
Blue Cross/Blue Shield reimbursement re nursing services	1,359.00
Blue Cross/Blue Shield reimbursement re Dr. Landau	102.72
Blue Cross/Blue Shield reimbursement re dental services	248.00
The Prudential - AARP Group Health Insurance reimbursement re Dr. Proner	8.52
The Prudential - AARP Group Health Insurance various reimbursements	233.84
Internal Revenue Service - refund of individual income tax for 1986 plus interest to date of death	17,409.00 1,037.24

SCHEDULE A
(Continued)

Assets on hand as of November 27, 1988,
date of death of Edmund J. McCormick and
herein accounted for: (continued)

<u>Miscellaneous</u>	<u>Inventory Value</u>
Internal Revenue Service - refund of individual income tax for 1985	\$ 67,001.00
plus interest to date of death	3,991.97
Internal Revenue Service - refund of individual income tax for 1984	48,613.00
plus interest to date of death	2,896.41
Internal Revenue Service - refund of individual income tax for 1982	1,108.00
plus interest to date of death	82.21
Internal Revenue Service - refund of individual income tax for 1981	1,771.00
plus interest to date of death	129.07
<u>New York State Income Tax - refund of individual income tax for:</u>	
1984	\$18,195.00
1985	5,692.00
1986	10,375.00
interest to date of death	<u>1,872.15</u>
	36,134.15
Social Security Administration - lump sum death benefit	255.00
Social Security Administration - underpayment of benefits due decedent	610.00

SCHEDULE B
(Continued)

Collected dividends accrued
to date of death on the
following stocks: (continued)

		<u>Net Proceeds</u>	<u>Inventory Value</u>	<u>Decrease</u>
12/31/88	100 shares, SVM, Inc., common \$	10,000.00 \$	10,000.00 \$	0.00
	Collected the follow- ing miscellaneous assets:			
1/4/89	SVM, Inc. - manage- ment consulting fee due decedent	20,000.00	20,000.00	0.00
/19/89	Nursing Home, Inc. - management consulting fee for fiscal year 5/31/89	10,000.00	10,000.00	0.00
2/10/89	The Prudential - AARP Group Health Insurance - reim- bursement re Dr. Proner	8.52	8.52	0.00
2/14/89	The Prudential - AARP Health Insurance reimbursement re various providers	233.84	233.84	0.00
3/13/89	Internal Revenue Service - refund of individual income tax for 1986	17,409.00	17,409.00	0.00
	accrued interest thereon	1,037.24	1,037.24	0.00

SCHEDULE B
(Continued)

Collected the following
miscellaneous assets:
(continued)

	<u>Net Proceeds</u>	<u>Inventory Value</u>	<u>Decrease</u>
3/13/89 Internal Revenue Service - refund of individual income tax for 1985	\$67,001.00 \$	67,001.00 \$	0.00
accrued interest thereon	3,991.97	3,991.97	0.00
Internal Revenue Service - refund of individual income tax for 1984	48,613.00	48,613.00	0.00
accrued interest thereon	2,896.41	2,896.41	0.00
Internal Revenue Service - refund of individual income tax for 1982	1,108.00	1,108.00	0.00
accrued interest thereon	82.81	82.81	0.00
Internal Revenue Service - refund of individual income tax for 1981	1,771.00	1,771.00	0.00
accrued interest thereon	129.07	129.07	0.00
social Security Ad- ministration under- payment of benefits due decedent	610.00	610.00	0.00

SURROGATE'S COURT

COUNTY OF WESTCHESTER

* * * * * X
 *
 ACCOUNTING OF *
 *
 BANKERS TRUST COMPANY, SUZANNE V. *
 McCORMICK, EDMUND J. McCORMICK, JR., *
 ALFRED S. HOWES AND HERMAN MARKOWITZ *
 *
 as Executors of the Will of *
 *
 EDMUND J. McCORMICK, *
 deceased *
 *
 * * * * * X

File No. 3522-1988

FINAL
ACCOUNT OF
PROCEEDINGS

TO THE SURROGATE'S COURT OF THE COUNTY OF WESTCHESTER:

The undersigned do hereby render the account of proceedings as follows:

Period of account from November 27, 1988, date of death, to July 25, 1996. This is a Final Account.

PRINCIPAL

SCHEDULE "A"

STATEMENT OF PRINCIPAL RECEIVED

SCHEDULE "A-1"

STATEMENT OF INCREASES ON SALES,
LIQUIDATION OR DISTRIBUTION

SCHEDULE "B"

STATEMENT OF DECREASES DUE TO SALES, LIQUIDATION,
COLLECTION, DISTRIBUTION OR UNCOLLECTIBILITY

SCHEDULE "C"

STATEMENT OF FUNERAL AND ADMINISTRATION
EXPENSES CHARGEABLE TO PRINCIPAL

SUMMARY
(Continued)

The foregoing Principal balance of \$671,110.03 consists of \$245,071.56 in cash and cash equivalents and \$426,038.47 in other property on hand as of the 25th day of July, 1996. It is subject to deduction of estimated Principal commissions as computed in Schedule J, and to the proper charge to Principal of expenses of this accounting.

The foregoing Income balance of \$292,061.13 consists entirely of cash and cash equivalents as of the 25th day of July, 1996. It is subject to deduction of estimated Income commissions as computed in Schedule J, and to the proper charge to Income of expenses of this accounting.

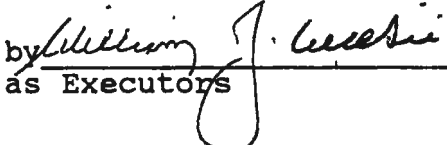


Alfred S. Howes **



Herman Markowitz

Bankers Trust Company

by 

as Executors

**Because Alfred S. Howes resigned as Co-Executor of the Estate of Edmund J. McCormick on March 12, 1992, pursuant to an Order of the Court dated January 23, 1992, he is accountable only for such receipts, expenses, paid or accrued, and transactions as occurred on or prior to March 12, 1992.

STATE OF NEW YORK)
) :SS
COUNTY OF NEW YORK)

L. J. WILKIE of BANKERS TRUST COMPANY as Executor of the Will of EDMUND J. McCORMICK, being duly sworn, deposes and says: that the foregoing Final Account of Proceedings and schedules annexed, covering the period from November 27, 1988, date of death, through July 25, 1996, contain, to the best of his knowledge and belief, a full and true statement of all the receipts and disbursements on account of the fund and of all the money and other property belonging to the fund which came into the hands of said BANKERS TRUST COMPANY as Executor or which were received by any other person by its order or authority, or for its use as Executor and that he does not know of any error or omission in the account to the prejudice of any creditor of or person interested in the estate or fund.

L. J. Wilkie

Sworn to before me this
8th day of November, 1996

[Signature]

INDEX NO. 3522/88

**SURROGATE'S COURT:
WESTCHESTER COUNTY**

**Petition of BANKERS TRUST COMPANY and
HERMAN MARKOWITZ for Settlement of
their Account as Co-Executors of the Last Will
and Testament of**

EDMUND J. McCORMICK,

Deceased,

**and for a direction pursuant to SCPA § 2215 for
repayment of excess distributions to an interested
party, and for recovery of estate assets due from
Edmund J. McCormick, Jr. and Bank Street
Investment, Inc. d/b/a McCormick Organization.**

COPY

ACCOUNT

WHITE & CASE

**ATTORNEYS FOR PETITIONERS
BANKERS TRUST COMPANY
and HERMAN MARKOWITZ**

**1155 Avenue of the Americas
New York, New York 10036-2787
(212) 819-8200**

SIR:

PLEASE TAKE NOTICE that a.....
.....
**of which the within is a true copy, has
been made herein and was duly entered
and filed in the office of the Clerk of the**
.....
.....
on the.....day of.....
19.....

WHITE & CASE

Attorneys for.....
**1155 Avenue of the Americas
New York, New York 10036-2787**

To.....
Attorney for.....

A 520

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

Petition of BANKERS TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of their Account as
Co-Executors of the Last Will and Testament of
EDMUND J. McCORMICK,

Deceased,

and for a direction to SCPA Section S 2215 for
repayment of excess distributions to an interested
party, and for recovery of estate assets due from
Edmund J. McCormick, Jr. and Bank Street
Investment, Inc. d/b/a McCormick Organization.

Hall, Dickler, Kent,
Friedman & Wood, L.L.P.
11 Martine Avenue
White Plains, New York 10606

April 13, 1998
10:30 a.m.

EXAMINATION BEFORE TRIAL OF CO-EXECUTOR,
BANKERS TRUST COMPANY, BY WILLIAM J. WILKIE,
pursuant to Notice and Court Order, taken at the
above place, date and time, before Lori Deskin, a
Notary Public within and for the State of New
York.

SULLIVAN REPORTING
200 Mamaroneck Avenue
White Plains, New York 10601
(914) 949-4545

Exhibit 55

CONDENSED

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A P P E A R A N C E S :

WHITE & CASE, ESQS.

Attorneys for Co-Executors Herman Markowitz
and Bankers Trust Company
1155 Avenue of the Americas
New York, New York 10036-2787

BY: PHILIP H. SCHARFFER, ESQ.

AND: ROBERT E. TIEDEMANN, ESQ.

PONZINI, SPENCER & GEIS, L.L.P.

Attorneys for Edmund J. McCormick, Jr.
14 North Broadway
Tarrytown, New York 10591

BY: DAVID PARKER GEIS, ESQ.

AND: CHRISTIAN G. ZEBICOFF, ESQ.

HALL, DICKLER, KEPT, FRIEDMAN & WOOD, L.L.P.

Attorneys for Suzanne McCormick
909 Third Avenue
New York, New York 10022-4731

BY: PETER D. RAYMOND, ESQ.

A L S O P R E S E N T :

EDMUND J. McCORMICK, JR.

SUZANNE McCORMICK

PATRICK HANLEY

1
2 STIPULATIONS:

3 IT IS HEREBY STIPULATED AND AGREED,
4 by and between the respective parties hereto,
5 that all rights provided by the Civil Practice Law and
6 Rules 3116 and 3117, including the right to object
7 to any question, except as to form, or to move to
8 strike any testimony of this examination are
9 reserved, and, in addition, the failure to object
10 to any question, shall not be a bar or waiver to
11 make such motion at, and is reserved for, the
12 trial.

13 IT IS FURTHER STIPULATED AND AGREED,
14 that this examination may be signed and sworn to
15 by the witness being examined before a Notary Public
16 other than the Notary Public before whom this
17 examination was begun, but the failure to do so,
18 or return the original of this examination to
19 counsel, shall not be deemed a waiver of any
20 rights.

21 IT IS FURTHER STIPULATED AND AGREED,
22 that the filing of the original of this examination is
waived and that a copy of the transcript shall be
24 furnished to the attorney for the witness being

Page 4

1 William J. Wilkie
 2 WILLIAM J. WILKIE, a Witness for Co-Executor Bankers
 3 Trust Company herein, having been first duly
 4 sworn by a Notary Public within and for the State
 5 of New York, was examined and testified as
 6 follows:
 7 EXAMINATION BY MR. RAYMOND:
 8 Q. Will you state your name and address for
 9 the record, please?
 10 A. William J. Wilkie, 174 MacGregor Drive,
 11 Stamford, Connecticut 06902.
 12 Q. My name is Peter Raymond. I represent
 13 Suzanne McCormick and the children and grandchildren of
 14 Edmund McCormick, Sr., with the exception of Edmund
 15 McCormick, Jr.
 16 I am going to be asking you a series of
 17 questions today. If you don't understand any question,
 18 I ask that you let me know, and I will rephrase it for
 19 you.
 20 Did you review any documents in preparation
 21 of your appearance this morning?
 22 A. Yes.
 23 Q. What documents did you review?
 24 A. I reviewed a number of letters that had
 25 transpired, taken place over the last couple of years.

Page 5

1 William J. Wilkie
 2 Q. Were these letters that you wrote or were
 3 written to you?
 4 A. Yes.
 5 Q. Did you review letters that fall into
 6 something other than those two categories?
 7 A. Yes.
 8 Q. Do you recall whose correspondence that was
 9 that you reviewed?
 10 A. Winthrop Rutherford of White & Case.
 11 Q. Did you look at any other correspondence,
 12 other than those?
 13 A. There was a couple of letters that Henry
 14 Zarzicki wrote.
 15 Q. Any other correspondence?
 16 A. That's all that I recall.
 17 Q. Did you review any other documents, other
 18 than correspondence?
 19 A. I read -- yes, I did.
 20 Q. What documents were those?
 21 A. I read again Mr. McCormick's will.
 22 Q. Did you review anything other than the
 23 will?
 24 A. Not that I recall.
 25 Q. Did you review the petition or schedules to

Page 6

1 William J. Wilkie
 2 the petition?
 3 A. I did read the petition.
 4 Q. You have now given me your fullest
 5 recollection of all the documents that you reviewed in
 6 preparation of your appearance here today?
 7 A. I was shown one other document.
 8 Q. What document was that?
 9 A. White & Case showed me a file and asked if
 10 I recognized whose work product it was.
 11 Q. Did you recognize whose work product it
 12 was?
 13 A. I did not.
 14 Q. Could you describe what you mean when you
 15 say you were shown a file?
 16 A. It was a collection of, I think, yellow,
 17 full staff papers on which there was some writings.
 18 I only looked at the first page or two.
 19 Q. Did you recognize the handwriting?
 20 A. I did not.
 21 Q. Did you subsequently learn whose
 22 handwriting it was?
 23 A. No.
 24 Q. Do you know whether that file is a file
 25 that was produced in the document discovery in this

Page 7

1 William J. Wilkie
 2 proceeding?
 3 A. I do not know.
 4 Q. Did you discuss with anyone other than your
 5 attorney whose file that may have been?
 6 A. No.
 7 Q. Again, excluding your conversations with
 8 your counsel, did you have any conversations with anyone
 9 in preparation of your appearance here today?
 10 A. No.
 11 Q. You spoke to no one else at Bankers Trust
 12 about what might be asked today?
 13 A. No.
 14 Q. Did you meet with your counsel before
 15 appearing here today?
 16 A. Yes.
 17 Q. Did anyone else from Bankers Trust attend
 18 those meetings or meeting?
 19 A. No.
 20 Q. Did anyone else not from Bankers Trust
 21 other than you and your counsel attend that meeting or
 22 meetings?
 23 A. No.
 24 Q. Other than your meeting with counsel and
 25 reviewing the documents that we have just gone over, did

Page 36

1 William J. Wilkie
 2 Q. Where in Connecticut was that located?
 3 A. In Greenwich.
 4 Q. Does that subsidiary still exist in
 5 Greenwich today?
 6 A. Yes, it does.
 7 Q. Does it have a name?
 8 A. Yes.
 9 Q. What's the name?
 10 A. Bankers Trust of Connecticut, Limited.
 11 Q. Now, again, in this period starting from
 12 1985, when the trust officers reported to you, was there
 13 any system by which they reported to you? By that, I
 14 mean were there regular meetings or regular written
 15 reports that were given to you on each estate?
 16 A. No.
 17 Q. Was it true that trust officers came to you
 18 whenever they felt they needed advice on something?
 19 A. In many cases.
 20 Q. Did trust officers from 1985 on have any
 21 specific time frames in which they had to report to you
 22 about the estates under their control?
 23 A. No.
 24 Q. Did you have any regular system of checking
 25 with trust officers to monitor how the estates were

Page 37

1 William J. Wilkie
 2 going?
 3 A. I had a system, yes.
 4 Q. What was your system in that time period?
 5 A. Among other things, we would schedule an
 6 administrative review of all estates under
 7 administration, and that was done periodically.
 8 Q. How many times a year for each estate did
 9 that happen?
 10 A. Once, possibly twice.
 11 Q. What would go on as part of the
 12 administrative review?
 13 A. It would be a review of the estate's
 14 current status.
 15 Q. How physically did that take place? Did
 16 that take place in a meeting between you and the trust
 17 officer or the group involved in that estate?
 18 A. It would have taken place in a group
 19 setting where all the trust officers and their
 20 assistants working in that group would meet with me and
 21 probably another senior trust officer or, in my absence,
 22 with other senior trust officers, and we would get
 23 updated on the status of each estate.
 24 Q. When you refer to "other senior trust
 25 officers," are those other vice presidents, or were

Page 38

1 William J. Wilkie
 2 those people at a level above vice president?
 3 A. They would have been other vice presidents.
 4 Q. So again, in the 1985 and forward time
 5 period, there were -- it appears from your testimony,
 6 there were sort of gradations within the vice president
 7 ranks, where some vice presidents would have online
 8 responsibility for a particular estate, and other senior
 9 vice presidents would have supervisory responsibility
 10 over a number of different estates; is that correct?
 11 A. It would be that way, yes.
 12 Q. Did any vice presidents have both roles,
 13 where they were trust officer on a particular estate and
 14 also in a supervisory position over other estates?
 15 A. I think all the vice presidents acting in
 16 that role as senior vice president, a vice president who
 17 was senior or experienced in conducting the reviews,
 18 would also have his own or her own assistant of estates
 19 to administer.
 20 Q. But you -- I think you testified that you
 21 had a few that you were the trust officer on?
 22 A. I did testify to that, and to just explain
 23 that, I had old relationships, and I continued to deal
 24 with the clients, but assigned the actual administration
 25 to someone else.

Page 39

1 William J. Wilkie
 2 Q. When administrative reviews were held one
 3 or two times a year, was any type of written report
 4 generated to summarize what had been discovered or
 5 determined at the review?
 6 A. In some meetings, there were.
 7 Q. Is there a reason why there was a report
 8 generated sometimes and sometimes not?
 9 A. I don't recall.
 10 Q. If there were considered to be problems in
 11 a particular estate, was that a reason for creating a
 12 written report from time to time?
 13 A. It may or may not have been.
 14 Q. But you have no specific recollection of
 15 that?
 16 A. I do not.
 17 Q. Does Bankers Trust today have any type of
 18 written manuals that are given to trust officers at any
 19 level to tell them how to handle estates?
 20 A. No.
 21 Q. Has Bankers Trust ever had any type of
 22 manual or written instructions that were handed out to
 23 trust officers?
 24 A. We have no manual now or, to my knowledge,
 25 have we ever had one that fits into what you described.

1
2 STATE OF NEW YORK
3 SURROGATE'S COURT: COUNTY OF WESTCHESTER

4 ----- X
5 In the Matter of the Judicial Settlement of the
6 Intermediate Account of the Proceedings of BANKERS :
7 TRUST COMPANY, as Trustee of the Trust created under
8 Agreement dated November 16, 1972 between Ralph P.
9 Manny, as Grantor, and Samuel L. Brookfield, as
10 Trustee, for the benefit of ELLA MANNY PLACE and her
11 issue.

12 ----- X
13 In the Matter of the Judicial Settlement of the First
14 Intermediate Account of the Proceedings of BANKERS
15 TRUST COMPANY and JAMES F. DOWNEY, as Trustee of the
16 Trust created under Agreement dated December 21, 1976
17 between Ralph P. Manny, as Grantor, and FREDERICK R.
18 VAN VECHTEN and BANKERS TRUST COMPANY, as Trustees,
19 for the benefit of the Great Grandchildren and their
20 issue of RALPH P. MANNY.

21 ----- X

22
23
24 140 Grand Street
25 White Plains, New York

June 20, 2001
10:05 A.M.

18 EXAMINATION of WILLIAM J. WILKIE, on
19 behalf of Bankers Trust Company, the Petitioner
20 herein, held at the above time and place, taken before
21 Sari Boritzer, a Court Reporter and Notary Public
22 within and for the State of New York.

23 *****
24 COMPUTER-AIDED TRANSCRIPTION
25

1
2
3 STROOCK & STROOCK & LAVAN, LLP
4 Attorney for Petitioner
5 180 Madison Lane
6 New York, New York 10018-4982
7 BY: KENNETH PASQUALE, ESQ.
8
9 JOHN M. CHAIKIN, ESQ.
10 Attorney for Ella Marny Trust, et al Beneficiaries
11 2700 Westchester Avenue, Suite 315
12 Parkland, New York 10577
13
14 FREDERICK SEGALUND, ESQ.
15 Attorney for Donald Post & Stephen B. Orkin, Jr.
16 342 Madison Avenue
17 New York, New York 10173
18
19 ANNE PIRACCIRO, ESQ.
20 Counsel at Law
21 575 White Plains Road
22 Westchester, New York 10709
23
24 BY: CHRISTOPHER Q. ALLOCCO, ESQ., of Counsel
25

ALSO PRESENT:
Jonathan Murray Pines

1 completeness, I will produce it subject
2 to any objections. By the way, that
3 document, too, has some type of
4 redactions again, because it retains
5 trusts other than the two accountings at
6 issue.
7
8 MR. SEGALUND: Off the record
9 (Whereupon, there was a discussion
10 held off the record.)
11 EXAMINATION BY
12 MR. CHAIKIN:
13 Q. Good morning, sir.
14 A. Good morning.
15 Q. This is a pre-objection examination in
16 connection with the Ralph P. Marny 1972 trust for
17 the benefit of Ella Marny Pines and her
18 descendants and in connection with the 1976 Ralph
19 P. Marny trust for the benefit of his great
20 grandchildren.
21 For the record, sir, would you please
22 state your name, address and occupation?
23 A. It's William J. Vitale, 174 McCGregor
24 Drive, Stamford, Connecticut.
25 I am a managing director at Bankers

1
2 MR. PASQUALE: Before we start this
3 meeting, I do have some documents to
4 produce and I wanted to describe what
5 they are on the record. At Mr. Grant's
6 deposition last week, it was Mr. Chaikin
7 who requested production of certain
8 computer screens that showed who is
9 receiving Bankers Trust, I will call
10 them, account statements and I do have
11 that information which I will produce
12 now. I have it in two separate formats,
13 the first as of March 31, 1993, which is
14 the close of the accounting period. It
15 includes those items that have been
16 redacted, because those three entries
17 concerned trusts other than the two
18 trusts that we have been discussing and
19 for which accountings have been filed.
20 I am also going to produce the same
21 information as of June 15, 2001
22 currently, but I do so subject to all
23 objections to relevance, since that is
24 far after the close of the accounting
25 period, but for the sake of

1 Trust Company of New York
2 Q. How long have you been a managing
3 director at the Bankers Trust Company of New
4 York?
5 A. I've been a managing director, I guess,
6 five or six years, I don't recall exactly.
7 Q. So since approximately 1995 or 1996?
8 A. I would guess.
9 Q. How long have you been employed at
10 Bankers Trust Company?
11 A. 43 years.
12 Q. What was your position with Bankers
13 Trust Company prior to you becoming a manager,
14 senior manager or -
15 A. My title changed whenever I said, five
16 or six years ago, approximately. I've been in
17 the same position as head of our U.S. domestic
18 personal trust and estate services for an extended
19 period of time.
20 Q. Since approximately what year, sir?
21 A. Again, guessing, I look back at my job,
22 10 or 12 years, I would say, maybe longer.
23 Q. So that would be since approximately
24 1989 or 1990?
25

William J. Wilkie

<p style="text-align: right;">14</p> <p>1</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall the subject matter of</p> <p>4 those discussions?</p> <p>5 A. In general.</p> <p>6 Q. Could you please describe for me the</p> <p>7 subject matter?</p> <p>8 A. David came into the bank with an</p> <p>9 attorney. He also had a son accompany him, so I</p> <p>10 met his young son. I sat in on only part of the</p> <p>11 meeting and it was a general discussion of the</p> <p>12 trust.</p> <p>13 Q. Which trust were you discussing?</p> <p>14 A. To the best of my recollection, it was</p> <p>15 the '72 trust.</p> <p>16 Q. Do you recall specifically what about</p> <p>17 the '72 trust was being discussed?</p> <p>18 A. Undoubtedly, it had to do with the</p> <p>19 exercise of discretion and probably investments,</p> <p>20 as well.</p> <p>21 Q. Did you ever meet Ralph P. Manny?</p> <p>22 A. No.</p> <p>23 Q. Of the number of accounts that are</p> <p>24 represented by the direct reports to you, do you</p> <p>25 have a sense of approximately what number would</p>	<p style="text-align: right;">16</p> <p>1</p> <p>2 overtactical, but we go over this in our</p> <p>3 parliaments, a committee suggests an official</p> <p>4 board sanction of the committee of the bank.</p> <p>5 It's a group.</p> <p>6 Q. The correct terminology is?</p> <p>7 A. Discretionary payments group.</p> <p>8 Q. How many persons are members of the</p> <p>9 discretionary payments group?</p> <p>10 A. At any given meeting, we require three</p> <p>11 officers to consider all discretionary payment</p> <p>12 requests and most senior trust officers, probably</p> <p>13 all senior trust officers of the division are</p> <p>14 members of that group.</p> <p>15 Q. At the close of the accounting period,</p> <p>16 1999, that would have involved approximately how</p> <p>17 many senior trust officers?</p> <p>18 A. Approximately 18.</p> <p>19 Q. Was the number materially different in</p> <p>20 1996?</p> <p>21 A. No.</p> <p>22 Q. Was the procedure materially different</p> <p>23 in 1999 from what it is today?</p> <p>24 MR. PASQUALE: Note my objection.</p> <p>25 A. No.</p>
<p style="text-align: right;">15</p> <p>1</p> <p>2 involve Bankers Trust operating with a</p> <p>3 co-trustee?</p> <p>4 A. I do have a sense of that.</p> <p>5 Q. Approximately what percentage?</p> <p>6 A. Probably in the area of 60 percent or</p> <p>7 so.</p> <p>8 Q. Did you meet Mr. Van Vechten?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Have you met James Downey?</p> <p>11 A. Yes.</p> <p>12 Q. In connection with the 1976 trust?</p> <p>13 A. I don't think I've met with him in</p> <p>14 connection with the '76 trust.</p> <p>15 Q. Have you had telephone conversations</p> <p>16 with him with regard to the 1976 trust?</p> <p>17 A. Not that I recall.</p> <p>18 Q. I'd like to fill in some of the</p> <p>19 background that we have from Mr. Gem.</p> <p>20 There is such a thing as a</p> <p>21 discretionary committee that meets when the</p> <p>22 trustee has discretion to act under the various</p> <p>23 trust agreements of which it is trustee, am I</p> <p>24 correct?</p> <p>25 A. Yes, and I don't want to be</p>	<p style="text-align: right;">17</p> <p>1</p> <p>2 Q. Was the procedure materially different</p> <p>3 in 1996 from what it was in 1999?</p> <p>4 A. No.</p> <p>5 Q. Was it materially different in 1980,</p> <p>6 when you became a member of the management team?</p> <p>7 A. I don't recall.</p> <p>8 Q. Has it been different at any point</p> <p>9 since you became a member of the management team?</p> <p>10 A. To the best of my recollection, it's</p> <p>11 pretty consistent.</p> <p>12 Q. When did you first -- see you a member</p> <p>13 of the discretionary payments group?</p> <p>14 A. I am the chairman of the group.</p> <p>15 Q. How long have you been a member of the</p> <p>16 group?</p> <p>17 A. Again, I don't recall, but a long time.</p> <p>18 Q. Is there a written procedural manual</p> <p>19 for how the group should operate to exercise its</p> <p>20 discretion?</p> <p>21 A. I'm not sure. There is a -- I'm pretty</p> <p>22 sure there is a policy manual about the committee.</p> <p>23 It doesn't go into detail about how the committee</p> <p>24 exercises its discretion. I'm pretty sure it</p> <p>25 covers the structure of the committee and how</p>

18

1 names are to be presented.

2 Q. How frequently are there meetings of

3 the discretionary payments group?

4 A. There is a regularly scheduled meeting

5 every Thursday, but the group is always available

6 on demand if there is an action that requires

7 proper attendance.

8 Q. Is there a regular meeting time?

9 A. Yes, there is.

10 Q. Is there a typical length of the

11 meetings of the discretionary payments group?

12 A. No, there's not.

13 Q. Am I correct that the trust

14 administrative officer servicing an account will

15 prepare a memorandum and submit the memorandum to

16 the discretionary payments group in connection

17 with any requested exercise of discretion?

18 A. That is correct.

19 Q. Is that memorandum presented to the

20 members of the group before the meeting or at the

21 meeting?

22 A. Typically, at the meeting.

23 Q. Does the bank have written guidelines

24 with regard to the preparation of such memoranda?

25

20

1 A. Yes, and this is just a sense, I'd say

2 between five and ten percent.

3 Q. Have you reviewed any portion of the

4 bank's records with regard to the Ralph P. Manney

5 trust before coming to your deposition this

6 morning in preparation for this deposition?

7 A. No.

8 Q. Have you at any time reviewed the files

9 for the Ralph P. Manney trust, 1976 trust, we'll

10 start with that?

11 A. Would you repeat the question?

12 Q. Have you at any time reviewed the

13 bank's files for the 1976 trust?

14 A. I have looked at some files in the '76

15 trust, yes.

16 Q. Can you tell me when you did that?

17 A. Not very recently and I would say it

18 was before the close-off date of the accounting.

19 Q. Was there more than one occasion in

20 which you would have reviewed the files of the

21 1976 trust?

22 MR. PASQUALE: Objection to form.

23 A. I don't recall.

24 Q. Have you reviewed the bank's files for

25

19

1 A. I'm not sure.

2 MR. CHALKAN: I note for the record

3 that if there are such guidelines that

4 have been prepared, we have requested

5 that they be produced.

6 MR. PASQUALE: Well, when it under

7 adjournment. I'm not certain whether A,

8 you've requested them or B, they haven't

9 been produced, so we'll lock into it and

10 take it under adjournment.

11 Q. Do such memoranda generally include a

12 recommendation in favor of or against a

13 particular requested exercise of discretion?

14 A. Yes.

15 Q. Can you estimate for me the approximate

16 percentage of memoranda that would not include

17 such a recommendation?

18 A. I think they all include a

19 recommendation.

20 Q. Can you estimate for me the approximate

21 percentage of times when the discretionary

22 payment group does not follow that

23 recommendation?

24 MR. PASQUALE: Objection to form.

25

21

1 the 1972 trust?

2 A. In preparation for this deposition?

3 Q. You've answered "no" to that, sir.

4 A. That's correct, I have not. Yes.

5 Q. Can you tell me when you would have

6 reviewed those files?

7 A. Again, it predates the close-off date

8 of the accounting and I can certainly have a

9 sense that I've done that several times.

10 Q. When you reviewed the files for the

11 1976 trust, was that review in connection with a

12 review of the files of the '72 trust?

13 A. I don't recall.

14 Q. Can you recall what led you to review

15 the files for the 1976 trust?

16 A. No.

17 Q. Can you recall what led you to review

18 the files for the 1972 trust?

19 A. From the standpoint of the exercise of

20 discretion, the '72 trust was a very active

21 trust. There was a period of time when I was

22 getting very frequent telephone calls from one

23 member of the family and I can certainly those calls

24 prompted me to look at the files several times.

25

34

1 provides that the trustee may exercise its
 2 discretion for certain purposes, am I correct?
 3 MR. PASQUALE: Note my objection.
 4 A. Yes.
 5 Q. What are those purposes, in your
 6 understanding, of this provision?
 7 A. Anything that the trustees, in their
 8 absolute discretion, consider to be in the best
 9 interest of a beneficiary.
 10 Q. Do you have any understanding of how
 11 the trust came to be limited to paying for
 12 education and for no other purpose?
 13 A. No.
 14 Q. Does the bank have a policy with regard
 15 to considering other assets available to a
 16 beneficiary who requests a discretionary
 17 distribution from a trust?
 18 MR. PASQUALE: Can I have that read
 19 back, please?
 20 (The requested portion of the record
 21 was read.)
 22 MR. PASQUALE: Note my objection to
 23 the extent the question pertains to
 24 other than the 1976 or '72 trust, that
 25

35

1 issue.
 2 MR. CHAKAN: Please note I'm trying
 3 to establish if there is a general
 4 policy. If they're are in violation of
 5 it, that's relevant to this case.
 6 MR. PASQUALE: I have my objection
 7 noted.
 8 You can answer.
 9 A. We do not have a written policy that
 10 says we will or will not, in my view, in the
 11 exercise of discretion, be guided by our
 12 understanding of each trust provision. We look
 13 at the circumstances that we consider relevant to
 14 the exercise of my discretion.
 15 Q. Does Bankers Trust conduct any training
 16 or seminars for their administrative officers so
 17 that their administrative officers have the
 18 benefit of your thinking and your policies for
 19 handling discretionary trusts?
 20 MR. PASQUALE: Objection to form.
 21 THE WITNESS: Could I have that read
 22 back, please?
 23 (The requested portion of the record
 24 was read.)
 25

36

1 A. No.
 2 Q. Does Bankers Trust conduct training of
 3 any sort for its trust administrative officers?
 4 A. Yes.
 5 Q. In what areas do your trust
 6 administrative officers receive training?
 7 A. From time to time, just general
 8 practices and policies on trust administration.
 9 They're all directed to our trust procedural
 10 manual that outlines numerous procedures and
 11 steps. We do a lot of training on taxes and
 12 estate planning and trust law and developments
 13 and things like Improvement Investor Act, Uniform
 14 Principal and Income Act, things of that nature.
 15 Q. Does any portion of that training focus
 16 on when it is appropriate to consider a
 17 beneficiary's other resources when considering a
 18 request for a discretionary payment?
 19 A. Not that I recall.
 20 Q. Do you personally do anything to convey
 21 to the persons who report directly to you your
 22 views on the subject of when it is appropriate to
 23 consider the beneficiary's other assets and
 24 resources when considering a request for a
 25

37

1 discretionary payment?
 2 A. Yes.
 3 Q. What is it that you do?
 4 A. I think that type of inquiry would
 5 normally come about as we are considering
 6 specific requests for invasion and our
 7 understanding of the intent of the grantor or the
 8 terms of the trust in the assets, circumstances.
 9 It would be, in my mind, in many cases logical
 10 for us to consider outside resources or the lack
 11 thereof.
 12 Q. In those cases when it is appropriate
 13 to consider outside resources, what kinds of
 14 resources would you consider?
 15 MR. PASQUALE: Again, note my
 16 objection to the hypothetical nature of
 17 the question, but go ahead, Mr. Wilkie.
 18 A. We would certainly look at income
 19 levels, medical insurance, pensions, Social
 20 Security, Medicare, other assets.
 21 Q. Other trusts of which you have
 22 knowledge?
 23 A. Yes.
 24 Q. What is your sense with regard to the
 25

FIDUCIARY SERVICES DIVISION

MANUAL OF ESTATE AND TRUST MEMORANDA

This manual contains memoranda dealing with general and technical subjects pertinent to trust and estate administration, and policies and procedures to be followed in the conduct of our business.

The policies and procedures are intended to be comprehensive and current; however, it is recognized that due to the many variations in our product line, and the ever changing environment in which we operate, modifications may be necessary. In such cases, it will be necessary to obtain the approval of appropriate management.

April, 1997

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

COPY

Via Certified Mail
#7010 0290 0000 1509 2226

August 31, 2012

Joseph M. Accetta, Esq.
Chief Clerk
Westchester County Surrogate's Court
111 Martin Luther King Jr. Blvd. - 19th Floor
White Plains, New York 10601

RE: Estate of Edmund J. McCormick
Index No. 3522/1988

Dear Mr. Accetta:

At this time, I am writing this letter as a legal Executrix of the Estate of my husband, Edmund J. McCormick. Attached is a copy of the Certificate of Appointment of Executors dated January 21, 2011, on 'Amended Letters Testamentary' dated January 23, 1992 (based on the resignation of Alfred S. Howes who is listed on the Original Letters Testamentary dated January 25, 1989), that were issued in this Estate Matter and provided to me by Deutsche Bank (Attachment A - 1 pp.). This document lists the following 'Fiduciary Appointed' - Suzanne V McCormick (myself), Herman Markowitz, Deutsche Bank Trust Co. Americas f/k/a Bankers Trust Co. of NY and Edmund J McCormick Jr. I am also attaching an Exemplified Copy of the 'Original Letters Testamentary' dated January 25, 1989, signed by Westchester County Surrogate Judge Evans V. Brewster on April 10, 1989 (Attachment B - total of 2 pp.), along with a copy of a 'Certificate of Appointment of Fiduciary' dated April 20, 2004, on which John W. Kelly, then the Chief Clerk included a handwritten note regarding the resignation of Alfred S. Howes as of the date of January 23, 1992. (Attachment C - 1 pp.)

The purpose of this letter is to obtain a certified copy of the complete docket for the Estate of my husband, Edmund J. McCormick, that would show the 'entire' record of all the filings on the docket in this Estate Matter. Please advise me of any cost regarding this request in writing.

Also, attached is a (redacted) copy of letter (with enclosure) dated June 29, 2004 from Kenneth M Bernstein, Principle Court Attorney of the Dutchess County Surrogate's Court regarding in part their understanding of their role in the responsibility of maintaining a computerized docket in this Estate Matter (Attachment D - total 2 pp.).

Thank-you for your attention to this matter.

Sincerely yours


Suzanne McCormick

SM/ms

Exhibit 58

Attachments as listed above

**Surrogate's Court of the State of New York
Westchester County
Certificate of Appointment of Executors**

File #: 1988-3522

IT IS HEREBY CERTIFIED that Letters in the estate of the Decedent named below have been granted by this court, as follows:

Name of Decedent:	Edmund J McCormick	Date of Death:	November 27, 1988
Domicile:	County of Westchester		
Fiduciary Appointed:	Suzanne V McCormick		Deutsche Bank Trust Co. Americas
Mailing Address:	231 Clinton Ave Dobbs Ferry NY 10522		The Bankers Trust Co. of NY 280 Park Avenue New York NY 10017
	Herman Mattowicz 85 Dogwood Lane Irvington NY 10531		Edmund J McCormick Jr 14 West Shore Trail Sparta NJ 07871

Type of Letters Issued: AMENDED LETTERS TESTAMENTARY

Letters Issued On: January 23, 1992

Limitations: NONE

and such Letters are unrevoked and in full force as of this date.

Dated: January 21, 2011

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Westchester County Surrogate's Court at White Plains, New York.

WITNESS, Hon. James D Pagones, Judge of the Westchester County Surrogate's Court.

Joseph M. Accetta

Joseph M Accetta, Chief Clerk
Westchester County Surrogate's Court

This Certificate is Not Valid Without the Raised Seal of the Westchester County Surrogate's Court

Form 134 (REV. 12-1-78)

File No. 3522-1788.

COPY

LETTERS TESTAMENTARY

The People of the State of New York

Know All Men by These Presents that at the City of White Plains, County of Westchester, on the 25TH day of JANUARY, 1989, before
HON. EVANS V. BREWSTER, Surrogate of our said County, the Last Will and Testament of

EDMUND J. MC CORMICK
late of the VILLAGE of DOBBS FERRY in said County,
deceased, was proved and

ALFRED S. BOWES, HERMAN KARSONITZ,
SUSANNE V. MC CORMICK, EDMUND J. MC CORMICK, JR.,
BANKERS TRUST COMPANY OF NEW YORK

named therein, having duly qualified according to law, ARE hereby authorized to administer the estate of said decedent pursuant to the provisions of the will, subject to the jurisdiction and supervision of this Court.

IN TESTIMONY WHEREOF, we have caused the seal of office of the Surrogate's Court of the County of Westchester to be hereunto affixed.

Witness: Honorable Evans V. Brewster, Surrogate of our said County, at the City of White Plains, the 25TH day of JANUARY, 1989, in the year of our Lord one thousand nine hundred and EIGHTY-NINE
[Signature]
Clerk

Notice
Attention is called to the provisions of EPTL 11-1.6 and MPA 17c which make it a convenience and a duty for removal to the Executive Administration, Trusts or Connection to deposit in court Estate funds in the individual account by name. All such funds must be deposited on the return of the court administrator. This notice is given to you for your information.



N^o 13052

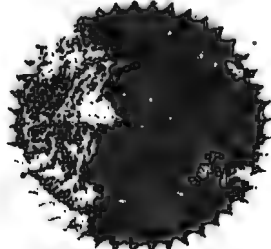
All which we have caused by these presents to be exemplified, and the Seal of our said Surrogate's Court to be hereunto affixed.

Witness, HONORABLE EVANS V BREWSTER, Surrogate of the County of Westchester, the
10TH of APRIL 19 89



Chief Clerk of the Surrogate's Court

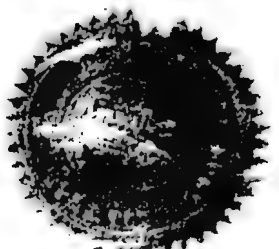
EVANS V BREWSTER, Surrogate of said County, do hereby certify that PHILIP E. PUGSLEY whose name is subscribed to the preceding exemplification, is the Chief Clerk of the said Surrogate's Court of the County of Westchester, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said Surrogate's Court, and that the attestation thereof is in due form and according to the form of attestation used in this State.



WITNESS, my hand and the Seal of said Surrogate's Court this 10TH day of APRIL 19 89
Evans V. Brewster
Surrogate.

State of New York }
County of Westchester }

I, PHILIP E. PUGSLEY Chief Clerk of the Surrogate's Court of the County of Westchester, do hereby certify that HONORABLE EVANS V. BREWSTER whose name is subscribed to the preceding Certificate, is the Surrogate of the County of Westchester, duly elected, sworn and qualified, and that the signature of said Surrogate in said Certificate is genuine.



IN TESTIMONY WHEREOF, I have hereto set my hand and affixed the Seal of the said Court, this 10TH day of APRIL 19 89

Chief Clerk of the Surrogate's Court

SURROGATE'S COURT)
STATE OF NEW YORK)

COUNTY OF Westchester) SS.: CERTIFICATE OF APPOINTMENT OF FIDUCIARY.

IT IS HEREBY CERTIFIED that Letters in the Estate of the decedent named below have been granted by this Court as follows:

File No.: 3522-1988

NAME OF DECEDENT: EDMUND J. MCCORMICK
RESIDENCE OF DECEDENT: VILLAGE OF DOBBS FERRY
REPRESENTATIVE(S) TO WHOM LETTERS ARE ISSUED: SUZANNE V. MCCORMICK, EDMUND J. MCCORMICK, JR. HERMAN MARKOWITZ AND BANKERS TRUST COMPANY
TYPE OF LETTERS ISSUED: LETTERS TESTAMENTARY
DATE OF LETTERS ISSUED: JANUARY 25, 1989
LIMITATIONS ON LETTERS: NONE

and such Letters are unrevoked and in full force as of this date.

Dated: April 20, 2004



IN TESTIMONY WHEREOF, the seal of Westchester County Surrogate's Court has been hereunto affixed.

WITNESS HON. ANTHONY A. SCARPINO, JR., Surrogate.

John W. Kelly
Chief Clerk of the Surrogate's Court

DO NOT ACCEPT THIS CERTIFICATE UNLESS THE RAISED SEAL OF THE COUNTY SURROGATE'S COURT IS AFFIXED THEREON.

(NOTE: S.C.P.A. 710 PROVIDES IN PART: "4. No fiduciary shall remove property of the estate from New York State without the prior approval of the Court and upon filing a bond if required by the Court".)

Original letters also included Alfred S. Hodges who resigned on 1/23/92. John W. Kelly, Chief Clerk

Attachment "C - 1"



STATE OF NEW YORK
SURROGATE'S COURT OF THE COUNTY OF DUTCHESS
COUNTY COURTHOUSE
10 MARKET STREET
POUGHKEEPSIE, N.Y. 12601

JAMES D. PAGONES
Surrogate Judge and AJSC

PHONE (845) 486-2235
FAX (845) 486-2234

JOHN J. ATHERTON
CHIEF CLERK

KAREN A. JOHNSON
DEPUTY CHIEF CLERK

May 23, 1988

Re Estate of Edmund J. McCormick
Index No. 3522/1988

[REDACTED] this proceeding was assigned to Judge Pagones as Acting Surrogate,
Westchester County by Administrative Judge Honorable Francis A. Nicolai. A copy of Justice
Nicolai's assignment is enclosed. [REDACTED]

[REDACTED] requested that the Court maintain a computerized docket of this proceeding.
You have been advised that this matter remains a Westchester County proceeding and any issues
regarding docketing must be addressed to that Court. [REDACTED]

Sincerely,

Kenneth M. Bernstein,
Principal Court Attorney

KMB:ln
EJL:one

04/16 '04 16:05 NO.959 01/01

9-ADMJ-0402A-03

The HON. FRANCIS A. NICOLAI, pursuant to the authority vested in him as Administrative Judge of the Ninth Judicial District,
D O E S H E R E B Y:

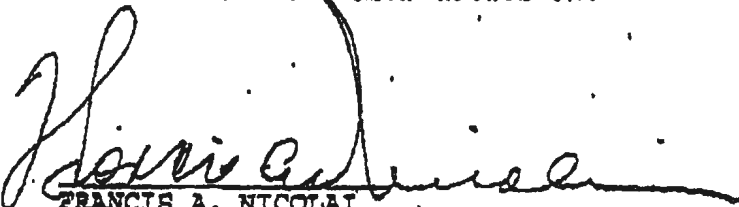
REASSIGN the following cases presently pending in ~~Surrogate's Court, Westchester County,~~ to the HON. JAMES D. PAGONES, Acting Surrogate, Westchester County, until disposition.

In the Matter of the Petition of Bankers Trust Company and Herman Markowitz for settlement of their account as co-executors of the Last Will and Testament of Edmund J. McCormick, Deceased and for a direction pursuant to SCPA §2215 for a repayment of excess distributions to an interested party, and for recovery of estate assets due from Edmund J. McCormick, Jr. and Bank Street Investment, Inc. d/b/a McCormick Organization
and

In the Matter of the Proceeding by Alfred S. Howas for settlement of account as co-executor of the Last Will and Testament of Edmund J. McCormick, Deceased

File No. 3522/88

This assignment is in addition to his other duties and reassignments.


FRANCIS A. NICOLAI
Administrative Judge
Ninth Judicial District

Dated: White Plains, New York
April 2, 2003,

Attachment "D - 2"



Westchester County Surrogate's Court

111 DR. MARTIN LUTHER KING, JR., BOULEVARD
19th FLOOR
WHITE PLAINS, NEW YORK 10601

914-824-5656
Fax: 914-995-3728

ALAN D. SCHEINKMAN
DISTRICT ADMINISTRATIVE JUDGE
NINTH JUDICIAL DISTRICT

JOSEPH M. ACCETTA, ESQ.
CHIEF CLERK

ANTHONY A. SCARPINO, JR.
SURROGATE

JOHANNA K. O'BRIEN
DEPUTY CHIEF CLERK

September 14, 2012

Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Re: Estate of Edmund J. McCormick
File Number: 1988-3522

Dear Mrs. McCormick,

The Court is in receipt of your letter dated August 31, 2012. Please be advised, there is no "docket" for this file. The file is maintained in this court, even though it may have been reassigned to another Surrogate for disposition of a proceeding.

This file is maintained in different forms; it is either on microfilm, hard copy files, or scanned into the current Unified Court Management System (UCMS) program. The form is determined when the file was first created, and when the subsequent proceedings were filed. Therefore, the original file will only be on microfilm, what was not microfilmed with original proceeding will be in hard copy form, and anything filed after March 2008 will be scanned into UCMS and viewable from the public computers in the office.

Surrogate's Court files are open records, anyone may view them during operational hours. The operational hours of the Record Room are Monday through Friday, 9 am to 4 pm. Copies of the files may be made at a charge of 25¢ per page.

If you have any questions or concerns, please contact me.

Sincerely,

Johanna K. O'Brien
Deputy Chief Clerk

Exhibit 59

CONFIDENTIAL

Market Segmentation Analysis



Bankers Trust

Weekly GIS Executive Staff Meeting
April 13, 1998

GIS's clients and segments have been categorized into three different categories based upon current IBB per client and potential profitability to Bankers Trust: "invest and grow" segments; "test and improve" segments; and "milk, exit and ignore" segments.

While additional work is required to understand the fixed/variable cost dynamics of de-emphasizing any one individual market segment, the overall theme is to become more focused and targeted towards existing clients and profitable cross-sell opportunities. In particular, there are at least six key client groups that represent "invest and grow" opportunities with additional existing clients in other segments that have the potential to generate a twenty percent margin within a reasonable length of time. While the majority of new business activity will be de-emphasized, further analysis is required to understand the impact of exiting any existing relationships upon GIS's cost base.

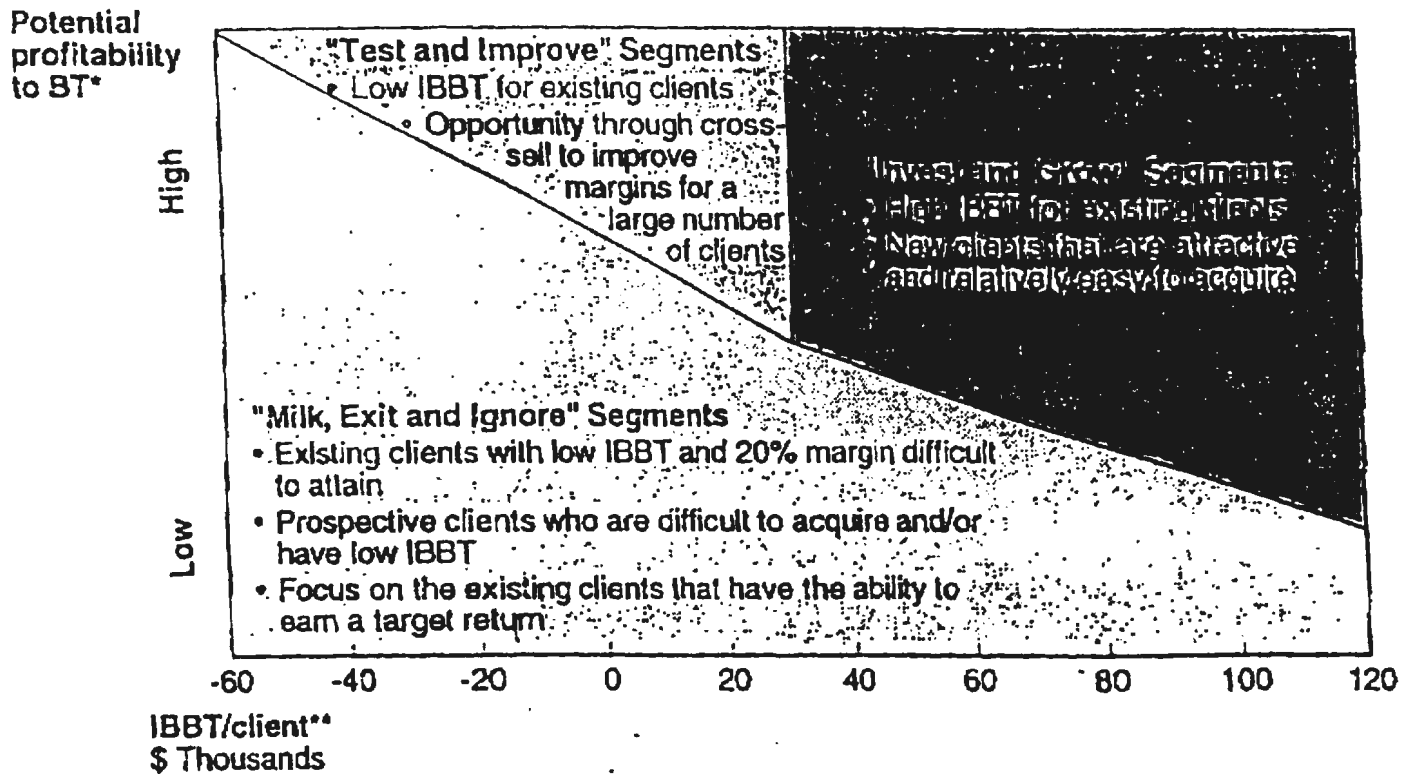
As a result of this analysis and subsequent discussions, there are a range of current practices that will no longer be conducted for new business and new clients, including no separate originator role. There will be two levels of sales and service depending upon the size and attractiveness of the client rather than providing the same level of service to all clients.

There are a further set of activities that need to be completed before a new approach to existing client segments can be completely defined. This includes confirming the cost savings expected from the custody reengineering project and any subsequent reevaluation of segments.

To identify priority segments and clients, three categories have been created based upon current IBBT per client and the potential profitability to BT: "invest and grow" segments, "test and improve" segments, and "milk, exit and ignore" segments.

SEGMENTATION MATRIX

ESTIMATE



* Subjective scale based upon size of wallet and BT's ability to capture

** Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; margin and IBBT adjusted for impact of custody reengineering

Source: Team analysis

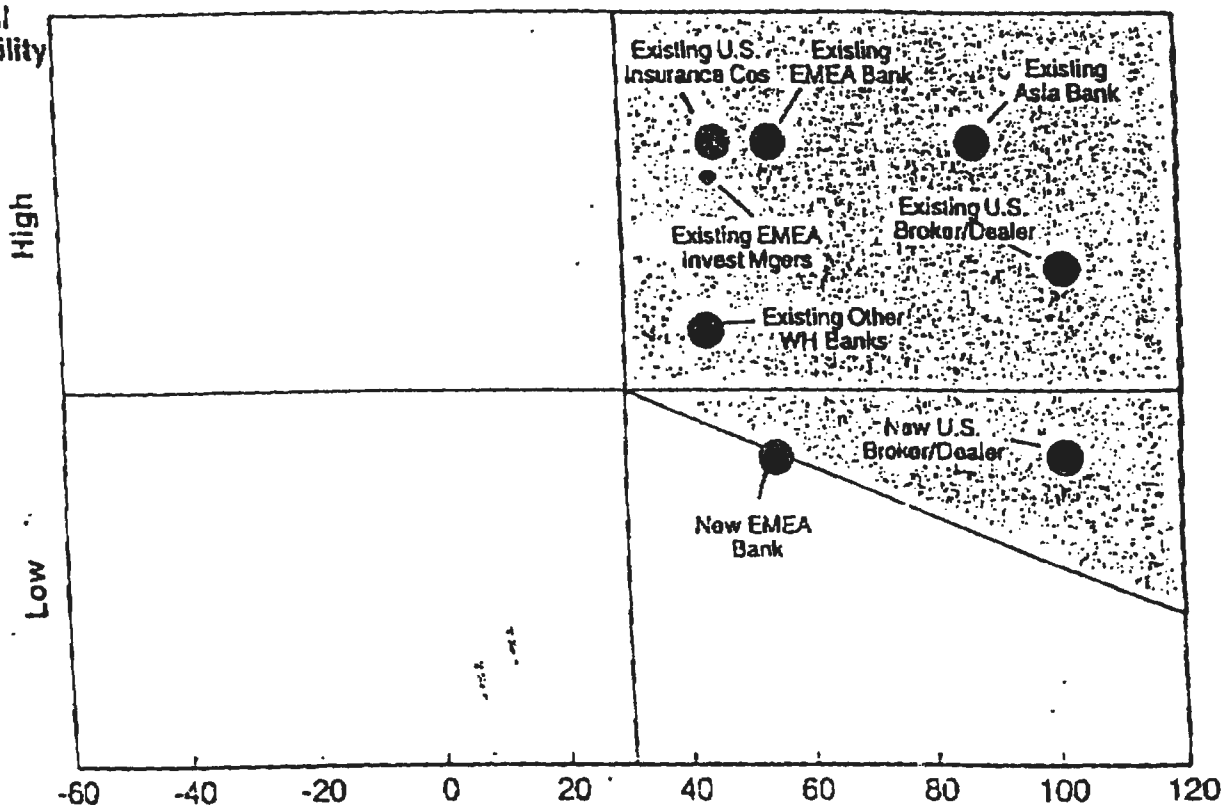
"Invest and Grow" Segments

There are six priority client groups within the "invest and grow" category. Although five existing client segments already earn margins in excess of 20 percent, there is still a large opportunity to increase profitability through both cross-sell and increased penetration.

"INVEST AND GROW" SEGMENTS

ESTIMATE

Potential profitability to BT*



- Margin** < 20%
- Margin** > 20%

Key themes

- Focused deployment on these segments
- Continue to increase return from existing clients through cross-sell and share of wallet

IBBT/client**
\$ Thousands

* Subjective scale based upon size of wallet and BT's ability to capture

** Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; margin and IBBT adjusted for impact of custody reengineering

Source: Team analysis

Given that most large and small clients are already profitable and earn margins above the target 20 percent, the challenge is to increase share of wallet and to cross-sell wherever appropriate.

PRIORITIES WITHIN "INVEST AND GROW" SEGMENTS

ESTIMATE

\$ Millions, percent

Segment	Adjusted IBBT*	Margin*		
		Overall	Large clients**	Small clients
Existing EMEA Banks	\$56.8	43.6%	43.6%	43.6%
Existing Asia Banks	35.6	47.4	48.0	45.5
Existing U.S. Broker/Dealers	18.5	33.5	34.4	31.2
Existing Other WH Banks	6.7	37.0	N/A	N/A
Existing U.S. Insurance Cos	6.5	27.7	27.1	30.8
Existing EMEA Investment Mgrs	4.4	17.1	N/A	N/A

Priorities

- Develop account plans for all clients
- Within each account plan
 - Identify opportunities to increase margin to 20 percent
 - Outline cross-sell targets
 - Define steps to increase share of wallet

* Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; IBBT and margin adjusted for the impact of the custody reengineering project

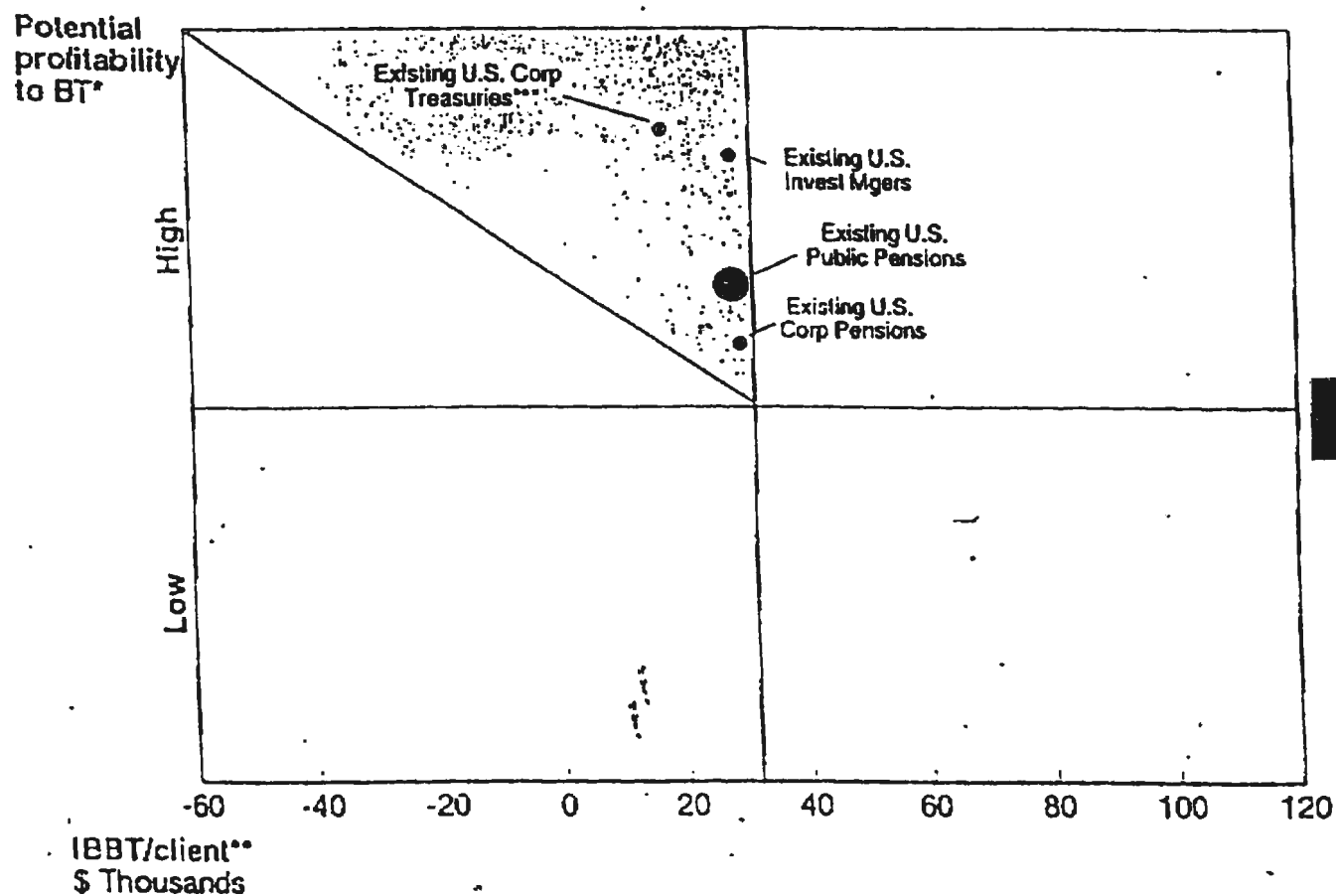
** Clients that contribute between 16% and 25% of segment IBBT, with at least \$250,000 to \$500,000 each in revenue

"Test and Improve" Segments

Four existing client segments fall in to the "test and improve" classification. The challenge is how to increase the margin and IBBT for the existing clients.

"TEST AND IMPROVE" SEGMENTS

ESTIMATE



Key themes

- Review short-term deployment against these segments
- Identify actions to improve margin for majority of the segments
- Review service models and treatment of unprofitable relationships

* Subjective scale based upon size of wallet and BT's ability to capture

** Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; margin and IBET adjusted for impact of custody reengineering

*** Margin excludes CTAG business

Source: Team analysis

Given the large amounts of revenue for these segments, it will be crucial to improve the profitability of the majority of clients within each segment rather than "cherry pick" a small number of existing profitable relationships and exit the others.

MAJOR CHALLENGES WITHIN "TEST AND IMPROVE" SEGMENTS

ESTIMATE

\$ Millions, percent

Segment	Revenue*	Adjusted IBBT*	Margin*
Existing U.S. Corp Pensions	\$161.2	\$15.4	9.5%
Existing U.S. Public Pensions**	58.2	12.7	21.8
Existing U.S. Corp Treasuries***	34.3	6.5	19.0
Existing U.S. Investment Mgrs	24.3	2.8	11.6

Priorities

- Develop account plans for all clients to increase profitability
- Within each account plan, outline steps to increase margin to 20 percent including any repricing opportunities
- For accounts unable to earn a 20 percent margin, review options including repricing to exit, allowing for cost implications
- Determine suitability and impact of a repricing exercise to improve all accounts to break-even

* Based on July 1997 YTD annualized VCR adjusted to match IBE as of 10/3/97; IBBT and margin includes adjustment for impact of custody reengineering

** Attractive profitability driven by small number of extremely profitable clients

*** Excludes CTAG revenue (\$43.6 million) and IBBT (\$14.8 million)

Source: Team analysis

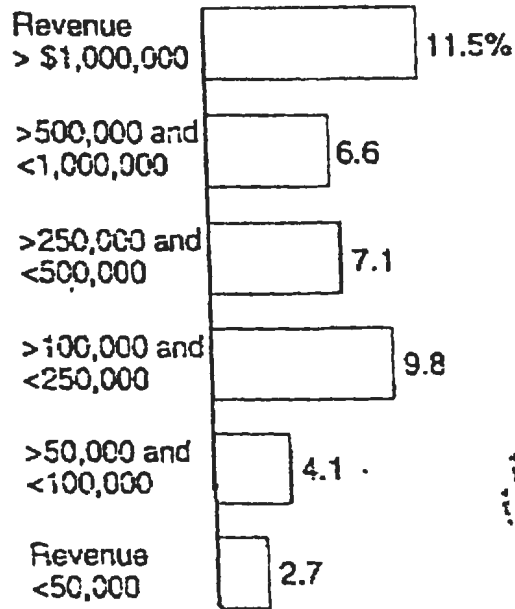
For example, within the U.S. Corporate Pension segment, the challenge will be to increase the number of high margin products purchased by all clients regardless of size.

U.S. CORPORATE PENSION CHALLENGE

ESTIMATE

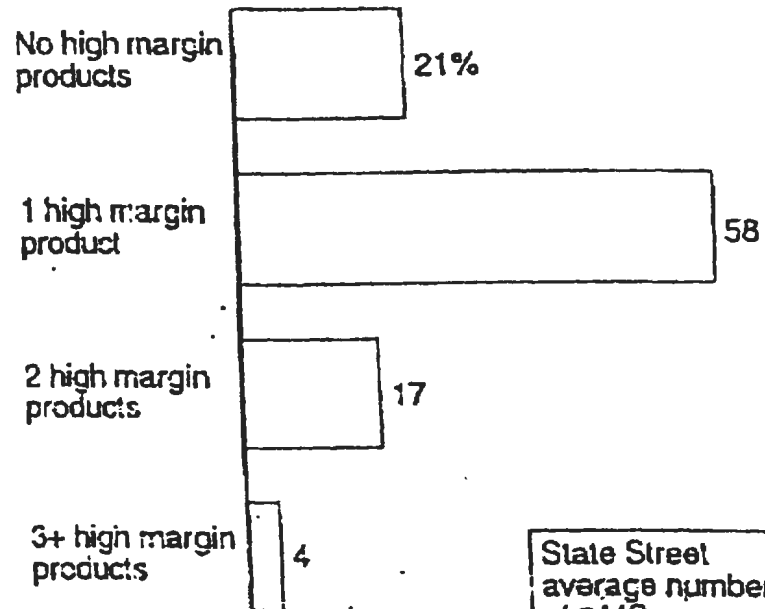
Percent

Margin by client size*



Target = 20%

Extent of high margin product cross-sell**



State Street average number of AMS products = 5.2

* Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; includes adjustment for custody reengineering project

** Defined as foreign exchange, securities lending, benefit payments, GIM, and cash products

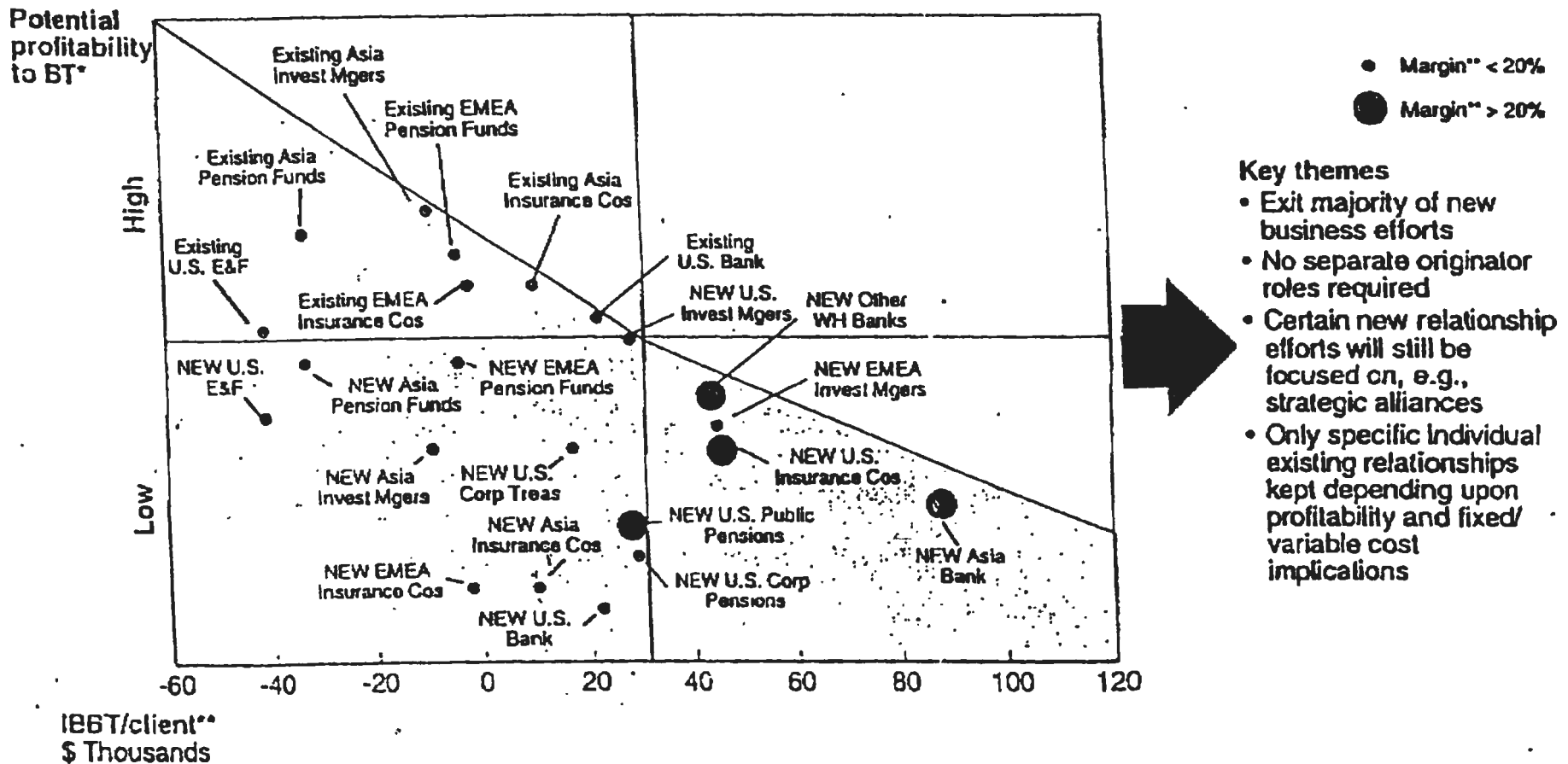
Source: Team analysis

"Milk, Exit and Ignore" Segments

Seven existing client segments and the majority of current selling efforts to new clients are part of the "milk, exit and ignore" classification. New client generation efforts will be reduced and only potentially profitable clients will be focused on subject to fixed/variable cost considerations.

"MILK, EXIT AND IGNORE" SEGMENTS

ESTIMATE



* Subjective scale based upon size of wallet and BT's ability to capture

** Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; margin and IBBT adjusted for impact of custody reengineering

Source: Team analysis

After understanding the cost dynamics of each segment, the immediate priority should be to review all accounts and quickly reprice, wherever appropriate, to ensure at least break-even profitability.

PRIORITIES WITHIN THE "MILK, EXIT AND IGNORE" SEGMENTS

ESTIMATE

\$ Millions, percent

Segment	Revenue	Adjusted IBBT*	Margin*
Existing U.S. Banks	36.4	6.6	17.9
Existing U.S. E&F	24.7	-5.0	-20.3
Existing EMEA Pension Funds	15.9	-1.0	-5.8
Existing EMEA Insurance Cos	6.9	-0.3	-3.8
Existing Asia Investment Mgrs	2.1	-0.2	-10.9
Existing Asia Insurance Cos	0.9	0.1	8.8
Existing Asia Pension Funds	0.5	-0.4	-88.7

Priorities

- Confirm numbers and model fixed/variable cost implications of any exit decision
- Develop exception criteria that specifies potential situations for retaining relationships despite poor profitability
- Sales people review all relationships starting with largest ones first
- Clients classified as either able to earn a margin above 20% or not within a reasonable amount of time
- Develop repricing plan for all negative IBBT relationships to achieve break-even status
- Action plans written for each client based on profitability classification and whether client meets the "exception" criteria

* Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; includes adjustment for impact of custody reengineering

Source: Team analysis

With the focus on cross-selling rather than new client acquisition, all sales efforts will be conducted on a targeted "only if profitable" basis. Most efforts will be reactive and conducted by the existing sales force rather than a separate origination group.

REACTIVE APPROACH TO NEW CLIENTS

Principles

- Large cross-sell opportunities in existing client base
- Cross-selling to existing clients is easier than finding new clients in an existing segment



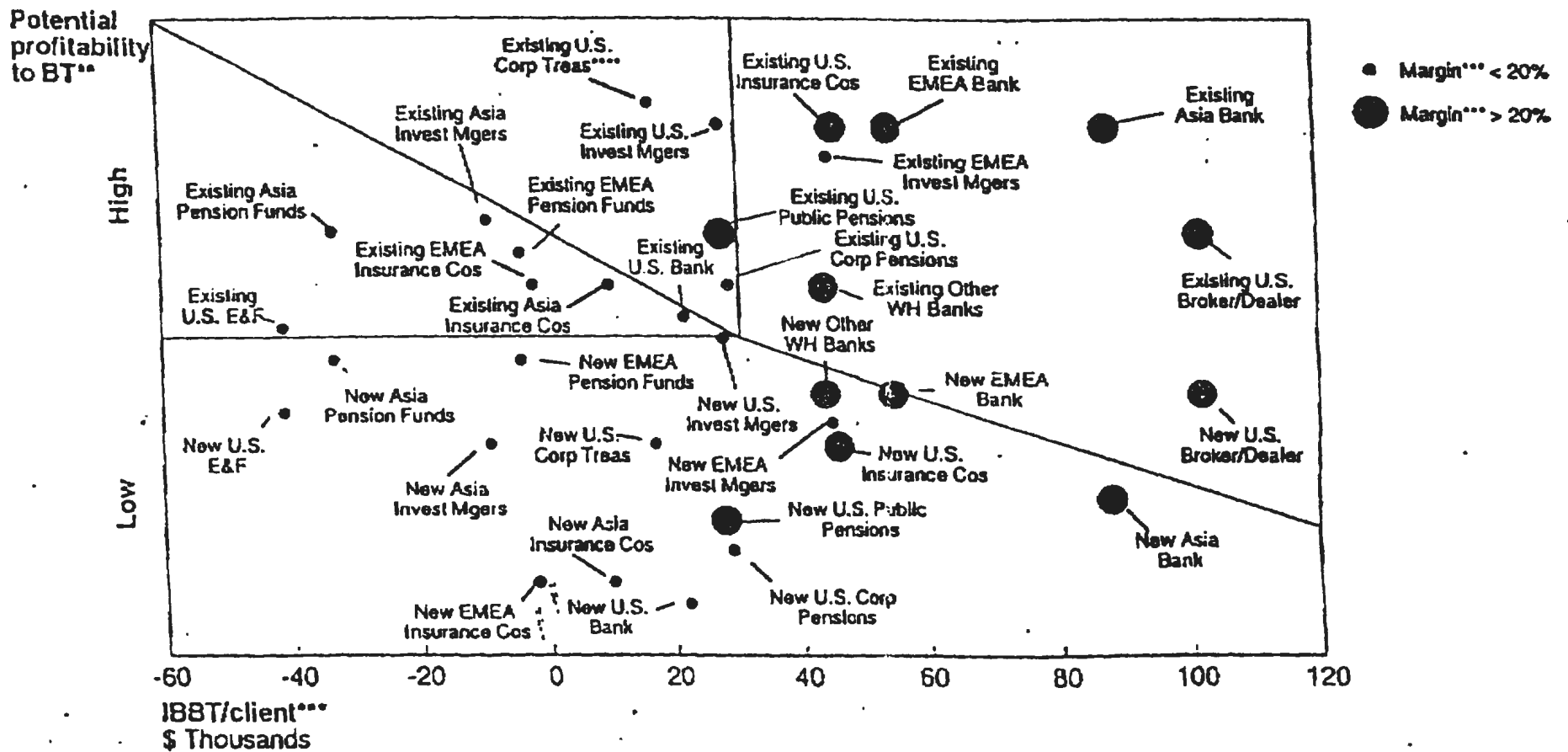
New client type	Approach	Specific tactics
Unattractive segment and difficult to acquire new clients	<ul style="list-style-type: none"> • Not interested 	<ul style="list-style-type: none"> • Decline all RFPs unless valid reason to make an exception • No separate originators
Attractive segment but difficult to acquire new clients	<ul style="list-style-type: none"> • Reactive approach to new business opportunities • Clear guidelines on desirable new business 	<ul style="list-style-type: none"> • Selective response to RFPs based on potential margins and product bundling opportunities • Independent consultant calling effort • No separate originators

Summary and Next Steps

The majority of existing client segments are in the upper portion of the matrix and the actions for these clients will depend upon the fixed/variable cost behavior for the "exit" clients. Most new clients are in the lower portion of the matrix and the intention is to reduce the resources and time focused on new client acquisition.

OVERALL SEGMENT PRIORITIZATION*

ESTIMATE



* Excludes Middle Market, Other Western Hemisphere non-Banks, Governments, Asia/EMEA Broker/Dealers, Asia/EMEA Corporate Treasuries and BT cross-business

** Subjective scale based upon size of wallet and BT's ability to capture

*** Based on July 1997 YTD annualized VCR adjusted to match IOB as of 10/23/97; margin and IBBT adjusted for impact of custody reengineering

**** Margin excludes CTAG business

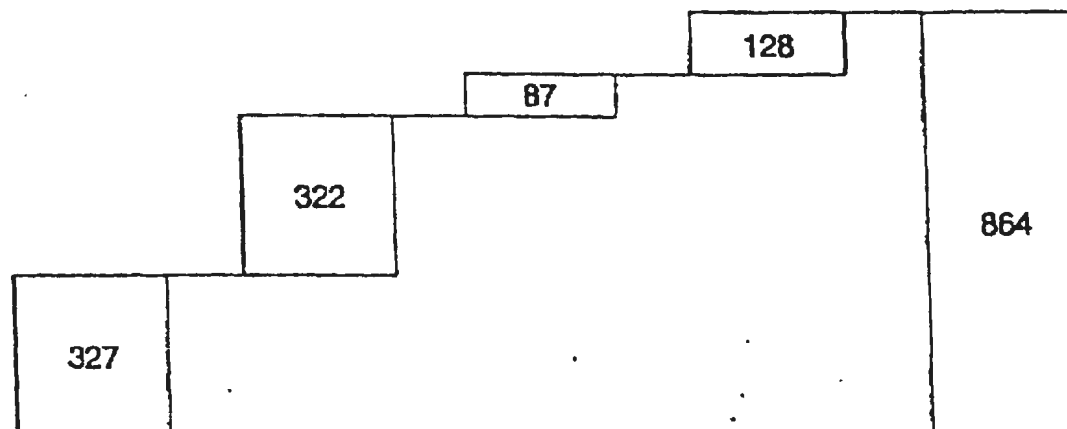
Source: Team analysis

Using the current classification, the "invest and grow" segments generate \$327 million in revenue with an overall margin of 39 percent. The "test and improve" segments generate significant revenues but earn a margin of 16 percent. The "milk, exit and ignore" segments generate \$87 million in revenue and there are significant sales resources deployed against these segments.

CURRENT REVENUE FROM NEW CLASSIFICATION OF SEGMENTS*

ESTIMATE

\$ Millions



	"Invest and Grow" Segments	"Test and Improve" Segments	"Milk, Exit and Ignore" Segments	Other**	Total
--	----------------------------	-----------------------------	----------------------------------	---------	-------

IBBT**	\$128	52	0	21	\$201
Margin***	39%	16	0	16	23%
Sales FTEs	138	44	92****	31	305
Sales direct expense	\$21	11	22****	7	\$61

* Based on July 1997 YTD annualized VCR adjusted to match IDB as of 10/23/97; Includes CTAG revenue

** Other Western Hemisphere non-Bank (\$14 million), Governments (36), Asia/EMEA Corporate Treasuries (30), Asia/EMEA Broker/Dealers (6) and BT cross-business (42)

*** Includes impact of custody reengineering project; Includes CTAG revenue and IBBT

**** Existing client segments have 24 FTEs and direct expense of \$6 million; new client segments have 68 FTEs (including percentage of FMs that spend time on new clients and associated admin staff) and \$16 million in direct expenses

There will be a limited focus on new clients going forward and any new business will need to strictly conform to pricing and bundling requirements. For example, there will be no pricing discounts and custody will not be sold without the value-added ancillary products.

CHANGES TO EXISTING PRACTICES

PRELIMINARY

Area	Changes
New client activities	<ul style="list-style-type: none">• No separate originators• No broad cold-calling or prospecting from any sales force member• No new RSG clients excluding USIM subadvisory or USIM standalone• For new non-RSG clients, limited responses to RFPs based upon attractiveness of business and product bundles required
New business characteristics (for both new and existing clients)	<ul style="list-style-type: none">• No custody-only sales• No customization• No departures from pricing policy for any clients, especially GAMS• No accounting unless bundled with other products and approved by relevant business line

A combination of fixed/variable cost analysis, a review of the custody cost savings from the reengineering project and detailed account plans need to be completed to determine the strategy for various groups of existing clients.

IMMEDIATE NEXT STEPS

Existing client segments	Next steps
Overall	<ul style="list-style-type: none">• Agree on business line margin targets, especially GAMS• Determine impact of not achieving custody re-engineering savings on segment classifications
"Invest and grow"	<ul style="list-style-type: none">• Confirm priority product opportunities by segment and client type• Develop market plans and client account plans• Establish committee/board with business line representatives to systematically review all segment plans
"Test and improve"	<ul style="list-style-type: none">• Develop account plans for each client to achieve target margins• Assess repricing opportunities• Model variable and fixed cost implications of any exit strategy• Validate and quantify the potential approaches and opportunities by segment• Review segment plans with business lines
"Milk, exit and ignore"	<ul style="list-style-type: none">• Develop account plans and tactics by client• Model variable and fixed cost implications of any exit strategy• Identify number of existing clients to retain• Report back to committee/board on plans• Determine FTE impact and cost savings for each part of GIS

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MONEY AND BUSINESS/FINANCIAL DESK

The Deep Slush at Bankers Trust

By TIMOTHY L. O'BRIEN (NYT) 3222 words

Published: May 30, 1999

PORING over records at the Bankers Trust Corporation in early 1994, New York State auditors discovered something strange: Millions of dollars in unclaimed customer funds had disappeared.

For two years, the auditors' repeated requests for an explanation were ignored. But they pressed ahead, and what they found left them aghast. The bank, one of the nation's largest, was using the money to inflate its sagging profits.

"They were moving it back and forth between so many other parts of the bank that they lost track of the money," said one auditor, who spoke only on condition that his name was not revealed. "I'd never seen anything on this scale before."

Bankers Trust, an investment and commercial bank that is the nation's eighth-largest, finally faced the music two months ago. It pleaded guilty in March to criminal charges of illegally diverting \$19.1 million in cash and other assets that the law requires to be turned over to states.

But a closer look at the scheme reveals that it goes well beyond the transgressions the bank owned up to.

Bankers Trust said it uncovered the fraud in 1996 and quickly alerted Federal authorities. In fact, several senior executives learned that the state auditors were asking questions two years before that. And it was pressure from senior executives, Federal prosecutors said, that spawned the fraud in the first place.

Moreover, the extent of the diversion is much greater than has been publicly disclosed, according to individuals investigating the bank. New York State alone has identified more than \$41 million owed to it -- more than twice as much as the bank has acknowledged.

Exhibit 61

~~And while the bank says its difficulties with unclaimed funds ended in 1996, at least two other states, Georgia and Illinois, are currently examining whether it has shortchanged them since then. An official in Georgia said Bankers Trust had turned over only \$663.63 in unclaimed funds between 1996 and 1998, including a check for just \$9.08 in 1996. That is so far below the minimum \$500,000 that an institution of Bankers Trust's size would ordinarily turn over, he said, that the state has initiated an audit to discover why.~~

Bankers Trust declined to comment on most aspects of the fraud, citing a continuing Federal investigation that is looking at the roles of former bank executives in the diversion of funds. A spokesman said the company was unaware of audits by other states but would cooperate fully. "Bankers Trust has worked diligently to cooperate with regulators and law enforcement authorities," said the spokesman, William McBride. "We have strengthened controls to help prevent the recurrence of these problems."

Bankers Trust has agreed as part of a settlement with Federal and New York State authorities to pay \$63.5 million in fines and to return the \$19.1 million it acknowledged diverting. But it is not the first bank to run into trouble over unclaimed customer funds. Last year, the Bank of America Corporation agreed to pay \$187.5 million to settle California charges that it had mishandled hundreds of millions of dollars over more than 15 years.

Bank of America, which was acquired last year by Nationsbank but retained its name, declined to comment on whether it was currently complying with laws governing unclaimed funds. But nine of the country's other largest banks and trust companies, including Bankers Trust, said they were.

Analysts expect the problems at Bankers Trust and Bank of America to compel regulators to increase their scrutiny of the handling of unclaimed customer funds. Unclaimed funds are bank accounts left dormant for a few years; the money must be turned over to states, which are then responsible for trying to find the owners.

While the Bankers Trust scheme rose to the unusual level of a criminal fraud, huge sums of money owed to consumers, retirees and large public and private institutions may be lying fallow in the vaults of banks and other financial services firms, banking experts say.

"There appears to be a lot of indifference to the issue of unclaimed funds by banks and regulators," said Robert Landau, a former Bankers Trust executive who is now a consultant and a leading authority on unclaimed funds. "But I think they'd be damn fools to keep hiding their heads in the sand now that the problem has come out."

There was nothing indifferent about the way a humble cast of New York State auditors dug into the books at Bankers Trust. The abuses they uncovered drew the Federal Reserve, the Federal Bureau of Investigation and the United States Attorney's office in Manhattan into the investigation, and they continue to invite scrutiny of a long-overlooked part of the banking business.

A Banker's Climb In a Quiet Corner

Bruce J. Kingdon enjoys all the trappings of wealth. He lives in a handsome, \$1.5 million waterfront home in Oceanport, N.J., with a pool in

~~the yard and a BMW and a Lexus in the driveway. He also owns a castle in Ireland and two young thoroughbreds, Crafty Card and Ring by Spring, that he races in New Jersey.~~

Like his horses, Mr. Kingdon, 48, once occupied the fast track. He joined Bankers Trust in 1982 and became a managing director four years later. In 1993, he was tapped by Eugene B. Shanks, then the bank's president, to run a lucrative unit known as global assets, which oversaw corporate trust accounts, administered pensions and kept an eye on unclaimed funds. Known to acquaintances as B. J., he reported directly to Mr. Shanks and also held a prized seat on the bank's 12-member operating committee.

Mr. Shanks and Charles S. Sanford, the bank's chief executive, had reshaped Bankers Trust during the late 1980's and early 1990's into one of Wall Street's most innovative shops. Once known as just another stodgy corporate lender, Bankers Trust developed an expertise in computer-driven trading and in the creation of newfangled financial hybrids known as derivatives.

Mr. Kingdon's unit was a humdrum corner of this flashy institution, but analysts estimated that it accounted for about 15 percent of Bankers Trust's 1993 profit of \$1.1 billion.

In 1994, though, Bankers Trust's highfliers were grounded by scandal. The bank, one of the most loosely managed on Wall Street, came under fire from clients and regulators who accused it of misleading customers about its risky derivative products. Tape recordings, later made public in court hearings, captured the bank's sales force snickering about the naivete of the clients. The fallout was brutal. In just a year, the bank's earnings plummeted to \$686 million; a Federal investigation eventually concluded that senior management had suppressed efforts by compliance officers to rein in questionable practices.

Before the Government's investigation was completed, Mr. Shanks and Mr. Sanford, both of whom declined to comment for this article, retired. Frank N. Newman, a former Treasury Department official, was appointed the new chief executive -- a switch engineered by the New York Federal Reserve to help restore the bank's credibility.

But while derivatives were making headlines, trouble was quietly brewing in Mr. Kingdon's domain. It was also in 1994 that three New York state auditors started asking questions about the bank's unclaimed-funds accounts, setting off a chain of events that led to Mr. Kingdon's resignation in early 1997 -- and the bank's guilty plea two months ago.

Within a few days of Mr. Kingdon's resignation, which Mr. Newman at the time attributed to personal reasons, Bankers Trust said it would add \$20 million to its reserves to reconcile "accounting differences" in the global assets unit.

Federal prosecutors had a harsher term, however, for what went on under Mr. Kingdon's watch. In court papers filed in March, they declared that the bookkeeping irregularities were part of a criminal conspiracy.

The prosecutors said several executives in Mr. Kingdon's unit, whom they declined to identify, treated unclaimed accounts like a vast slush fund. And far from being a rogue operation to fill their own pockets, the prosecutors said in a statement in March, the Bankers Trust scheme

was initiated because senior executives "placed severe pressure" on underlings to enhance the bank's dismal performance from 1994 to 1996.

According to lawyers and Bankers Trust employees familiar with the Federal investigation, Mr. Kingdon, although not named in court papers, orchestrated the fraud.

Mr. Kingdon, who is the chief target of the Federal investigation, declined repeated requests for an interview. His lawyer, Stanley Arkin, has not disputed Mr. Kingdon's involvement in the scheme, but argues that his client's actions did not amount to a criminal fraud. Laws governing unclaimed funds are murky, Mr. Arkin said, adding that Mr. Kingdon would contest any charges filed against him.

Officials in the United States Attorney's office said that when the bank's management first alerted Federal investigators to the scam, it played down the involvement of Bankers Trust employees.

In response, Bankers Trust said it minimized its executives' culpability at first because it did not realize the scope of the fraud. What it has not said, however, is that state auditors were pressing it for answers to questions about a possible conspiracy two years before the bank notified Federal authorities.

Stumbling Blocks On a Paper Trail

Auditors at the New York State Comptroller's office -- which audits banks for unclaimed funds originally owned by New York residents or institutions -- are known to be unusually dedicated, yet loath to see their names in print. True to their reputation, none of those involved in the Bankers Trust investigation would comment for attribution.

When the auditors noticed in 1994 that Bankers Trust's unclaimed-funds accounts had dropped from \$10.2 million in 1993 to \$3.9 million in 1994, they asked for records explaining the plunge. But despite repeated requests, the documents were not forthcoming. Because banks were ordinarily quick to assist them, the auditors were bothered by the fact that Bankers Trust was not.

"The bank initially wasn't very cooperative and indicated that records couldn't be located," Comptroller H. Carl McCall said in an interview. Bankers Trust's diversion of unclaimed funds "is one of the more egregious abuses my auditors have uncovered," he added.

Again and again, for more than two years, the auditors were told that the records had been transferred from New York to a warehouse in Nashville. The audit moved ahead slowly, partly because the auditors' resources were stretched thin but also because they failed to use stronger measures available to them, like issuing subpoenas or fining the bank, in the hope that it would cooperate.

Remarkably, even as the state auditors were in the bank raising questions about unclaimed funds, several Bankers Trust executives were blatantly foraging through those same accounts to locate money they could withhold from the state, according to allegations in an unsuccessful civil lawsuit filed in 1996 by Let W. Lee, a managing director who reported to Mr. Kingdon, against Bankers Trust in Federal court in Manhattan.

~~In the spring of 1995, Mr. Lee asked two of his employees, Harvey Plante and Gerard Callaghan, to identify unclaimed funds that could be kept on the bank's books, according to the lawsuit. The suit said Mr. Lee and Mr. Callaghan directed Mr. Plante to set up a reserve account for unclaimed funds -- the same account that Federal prosecutors would later label a slush fund.~~

The suit said Mr. Kingdon and Paula C. Gabriele, head of Bankers Trust's retirement services business, knew about the reserve account. It also said Mr. Lee cleared all of his actions, which he believed to be legal, with Bankers Trust's compliance officers. (The bank's compliance officers notify senior management of routine requests like Mr. Lee's only if they believe a problem has arisen, according to a bank spokesman.)

Mr. Lee's suit, which claimed that the bank libeled him in a disclosure to Federal authorities, was dismissed by an appeals court in February, on technical grounds; Bankers Trust was never called upon to respond to its allegations.

In all, Bankers Trust said 13 employees involved in the diversion of unclaimed funds resigned between 1996 and 1997.

Messrs. Kingdon and Plante, along with Kenneth Goglia, a former managing director for financial controls who worked for Mr. Kingdon, have all been formally notified that they are under investigation by Federal authorities, according to lawyers and Bankers Trust employees involved in the matter. Lawyers for Messrs. Goglia, Plante and Lee declined to comment. Ms. Gabriele's lawyer said she was not a target of the investigation and had left the bank on good terms. Mr. Callaghan, also not a target and still employed by Bankers Trust, declined to comment.

Late in 1996, with their paper trail still incomplete, the auditors decided to go over the heads of the Bankers Trust managers with whom they were dealing and to complain to more senior officials. (The auditors declined to identify any of the individuals they spoke with at the bank.)

"Oh, we were just going to call you," one of the auditors paraphrased a Bankers Trust senior official as telling the audit team in 1996. "We realize we have a problem."

That position struck one of the auditors as odd, since he had been examining the bank for more than two years. Bankers Trust declined to comment on anything having to do with the auditors' activities, including exactly who in the bank's upper ranks knew about the questions the auditors were asking.

In an interview, however, a bank spokesman said Bankers Trust had first heard about problems with unclaimed funds in an exit interview with a departing employee in early 1996 -- more than two years after the state auditors began pestering it for records. The bank said it was the exit interview that caused it to begin an internal investigation of unclaimed funds and to alert Federal authorities to the problem.

A Guilty Plea, But No Closure

In 1997, the state auditors finally demanded access to Bankers Trust's records. One of the auditors took advantage of a business trip to

~~Nashville to make a detour to the records center there. This time, the bank cooperated — and only then, the auditors said, did they begin to understand the full dimensions of what was happening.~~

But while they were the first to ferret out the problems at Bankers Trust, they were not the ones who brought the investigation to a head.

After plugging away in 1997 and 1998, the auditors were asked last October by the F.B.I., the Manhattan United States Attorney's office and the Federal Reserve to turn over thousands of pages of documents. A month later, representatives of those agencies met with the auditors and told them they were taking over the investigation.

In March, Bankers Trust pleaded guilty to criminal charges of diverting the funds. Because most companies and investors are forbidden to do business with convicted felons, Bankers Trust's admission could have put the bank out of business had it not already agreed in November 1998 to be acquired by the German banking giant Deutsche Bank A.G.

Bankers Trust informed employees in an internal memo in March that it was working closely with regulators to make sure there was no recurrence of unclaimed-funds problems. But it is not clear that those problems have actually ended.

In Georgia, Larry Griggers, director of the state Department of Revenue, said there were questions about the tiny sum in unclaimed funds turned over by Bankers Trust between 1996 and 1998: "We feel that it definitely should be larger than that, and we've initiated an audit."

The cupboards appear to have been bare even longer in Illinois. Over 34 years, the Illinois Department of Financial Institutions said, Bankers Trust has turned over just \$2,400 in unclaimed funds. The state said it had begun its own audit of Bankers Trust last summer.

Regulators in Washington, including officials from the Fed and the Comptroller of the Currency's office, say that outright theft of unclaimed funds is rare, and not something that bank customers should worry about. Some state regulators add that ignorance of the law, rather than criminal intent, is often to blame.

David Epstein, a Boston lawyer specializing in abandoned-property law, said the Federal and state governments had already collected about \$30 billion in unclaimed funds from banks and other companies -- but that consumers and institutions had yet to claim that money. States can make use of the funds once they receive them, but they must turn over the money whenever a rightful owner steps forward.

Still, no one seems to know how much money remains uncollected from banks. Mr. Landau, the banking consultant, said that while only a small percentage of bonds held by 30 banks he surveyed in 1996 were still unclaimed a year after they had matured, their value "could be billions."

Mr. Epstein, however, said unclaimed funds still held by banks "don't approach the staggering amounts suggested by some." But, he added, "the amounts are quite large."

~~Photo: A Bankers Trust unit headed by Bruce J. Kingdon, second from left, was under investigation by auditors as he celebrated a win at the Meadowlands in 1996 by his horse Crafty Card. He resigned from the bank in 1997. (Equi-Photo)(pg. 11)~~

Graph "Prompting an Inquiry" plots unclaimed funds sent to New York State by Bankers Trust since 1992.
(Source: New York State Comptroller's Office responding to Freedom of Information request)(pg. 1)

Chart: "How Bankers Trust Strayed"

SEPTEMBER 1993 -- Bruce J. Kingdon is named head of Bankers Trust's global assets division, which is in charge of unclaimed customer funds.

EARLY 1994 -- New York State auditors notice that unclaimed customer funds have dwindled. They ask for additional documents from the bank, but the bank does not produce them.

SPRING 1995 -- Let W. Lee, who reports to Mr. Kingdon, asks two of his employees to find unclaimed funds that do not have to be turned over to the state, according to a lawsuit filed by Mr. Lee.

OCT. 20, 1995 -- Frank N. Newman, a former Treasury official, is named chief executive of Bankers Trust in an attempt to clean up the bank after a derivatives scandal.

MARCH 1996 -- According to the bank, an employee discloses in an exit interview with Bankers Trust management that unclaimed funds are being diverted.

LATE 1996 -- In conversations with New York state auditors, senior executives of the bank acknowledge that something is wrong.

EARLY 1997 -- Mr. Kingdon resigns. A few days later the bank says there were accounting differences in his division.

SEPTEMBER 1997 -- Frustrated by the bank's failure to produce the documents they requested, New York State auditors demand access to the missing records. The bank produces them.

NOVEMBER 1998 -- The Federal Bureau of Investigation, the Manhattan United States Attorney's office and the Federal Reserve take over the investigation from the state auditors.

MARCH 1999 -- Bankers Trust pleads guilty to criminal charges of illegally diverting \$19.1 million in unclaimed funds. It agrees to repay the money and pay \$63.5 million in fines.

Earnings, in millions of dollars

'93 -- \$1,084

'94 -- \$686

'95 -- \$311

'96 -- \$766

'97 -- \$866

'98 -- -\$73

(pg. 11)

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BUSINESS/FINANCIAL DESK

INTERNATIONAL BUSINESS; Deutsche Bank Seals Bankers Trust Deal

By TIMOTHY L. O'BRIEN (NYT) 655 words
Published: June 5, 1999

Deutsche Bank A.G., sealing its position as the world's largest bank, completed its acquisition of the Bankers Trust Corporation yesterday and effectively put an end to the Bankers Trust brand name.

Deutsche said it planned to stop using or gradually phase out that name in almost all businesses except private banking. Deutsche will temporarily maintain the name of the Bankers Trust investment banking unit, BT Alex. Brown, as Alex. Brown for some of the merged company's investment banking activities in the United States.

A round of layoffs also began at Bankers Trust yesterday, with the announcement of large job cuts in the bank's fixed-income business. Though some were concerned that a disproportionate share of the layoffs would fall on Bankers Trust employees in this country, Deutsche said that its previously announced plan to lay off 5,500 people from both companies over a three-year period remained unchanged.

A Deutsche spokeswoman said those layoffs, which represent nearly 6 percent of the combined company's work force, would reflect the strengths and weaknesses of Deutsche's and Bankers Trust's various units and were agreed upon by management teams from both companies.

With \$817 billion in assets, Deutsche is a legendary powerhouse in European banking but has had less success making inroads into the highly competitive and highly entrepreneurial world of investment banking. In addition, Deutsche has been regarded by many analysts as somewhat lumbering in a world in which financial services are rapidly changing.

Deutsche's chief executive, Rolf E. Breuer, said in an interview that he believed the \$9 billion takeover of Bankers Trust would give Deutsche a "shot in the arm" and make it a more competitive player in European mergers and acquisitions -- a market that is expected to heat up in the next few years as the European economy and European companies consolidate.

Although Dr. Breuer said he was "interested in advising on megadeals" in the United States, he also said he had no intention of competing head on with the firms that already have a lock on that business -- Goldman, Sachs, for example, and Merrill Lynch and Morgan Stanley Dean Witter.

Exhibit 62

Dr. Breuer reiterated the bank's intention to centralize control of the investment banking operation in Frankfurt, the Deutsche home base. But he said he did not believe that a culture clash would emerge as Deutsche digested Bankers Trust.

He said that Americans would be running the investment banking business and that compensation within that unit would reflect the lush salaries that typify the investment banking industry.

"We have to pay market rates," Dr. Breuer said. "Otherwise people will leave."

Though any merger often involves thorny challenges in getting former competitors to cooperate, Dr. Breuer said Deutsche planned to move swiftly to integrate the operations of both banks.

He said the bank was still negotiating a settlement regarding questions about its handling of bank accounts owned by victims of the Holocaust. He said Deutsche would participate in a restitution fund that should be in place by Sept. 1, but he declined to estimate how large the fund would be.

Dr. Breuer also said Deutsche did not expect any further legal or financial problems stemming from Bankers Trust's recent guilty plea to Federal charges that it had misappropriated unclaimed customer funds. He said United States regulators had immunized Deutsche from any further claims as part of its takeover of Bankers Trust.

Photo: From New York, Rolf Breuer, the chief executive, appeared by video at Deutsche Bank in Frankfurt. (The Associated Press)

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8-26-02 **DAILY NEWS**

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Splitting heirs from their money

Even with former judge and future inmate Victor Barron heading to prison for bribery, the Brooklyn court crisis continues to grow. Following a Daily News exposé, the official spotlight has now swung to the cozy operation called Surrogate Court, where politically connected judges allow politically connected lawyers to make millions from the estates of the dead.

The state Commission on Judicial Conduct reportedly is looking into Brooklyn Surrogate Judge Michael Feinberg and his little network. That is good news, but the panel's powers are limited, as are its resources.



It would be even better if the state court system itself opened a probe to examine the entire state surrogate bench. Brooklyn isn't the only place where estates are ripped off.

There is speculation that New York's chief judge, Judith Kaye, doesn't want to erode public confidence in the judiciary with a potentially messy investigation. That's the entirely wrong attitude. As with the Wall Street scandals, the truth may hurt, but revealing it is the only way to bolster public confidence.

The surrogate issue is a perfect assignment for the courts' inspector general, Sherrill Spatz, who was named to the job in March after writing a scathing report on judicial fiduciary appointments. The impetus then, as now, was Brooklyn, where state Supreme Court Justice Richard Huttner's sleazy handling of a bankrupt cemetery was too blatant to ignore. Huttner, who was later censured for trying to sway a judge to rule in favor of his co-op building in a private dispute, is also tied to the surrogate mess.

Ostensibly elected, Feinberg won his post through what amounted to a fake 1996 election controlled by the Brooklyn Democratic machine. He, in turn, appointed the Brooklyn public administrator, Marietta Small. She then hired as counsel Louis Rosenthal, a private lawyer and pal of the judge.

Rosenthal reaps millions in fees from the estates — fees approved by Feinberg. Rosenthal shares the loot with connected subcontractors, including a law firm run by one of Huttner's sons and an insurance company that employs a second Huttner son. Other beneficiaries include an estate-auction firm once owned by a party bigwig. The News found that for estates valued at \$100,000 or more, Rosenthal and his buddies ate up 24% of the assets.

The solution is twofold: 1) Merit appointment of surrogate judges by the governor. 2) Ending the use of all private lawyers in handling intestate estates.

Let salaried court staff do the legal work. Let rightful heirs keep the money.

Saudi gall

Pity the poor, put-upon Saudis. After Sept. 11, the day on which 15 of their countrymen were among 19 terrorist hijackers, Saudi nationals in the U.S. had become the focus of investigations. Some

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Rockaway Beach: To Pat's: Next time, try. It sure ain't cool.

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New Hyde Park, I: I am a listener of Opie and Ant and like anyone else whens, I know these stunt contests are just a part of show. Stop blaming them at finity Broadcasting and the people who deserve it. couple from Virginia. Netwisted their arms or made do it. It was their decision.

Sue Pu

Church defender

Staten Island: Re Voicer Johnson's comment about St. Patrick's incident: Do know what I find offensive: ple who defend the indefer as you did. You obviously several problems with the C lic Church, but you ignor tremendous amount of gooing work done by the churchery and its organization

S. Exhibit 63

Br HELP USA shelter, I know agency shelters with supp services are critical. I am ful that my family was forced to sleep on the fl

...which happens to add up to \$133.8 million.

I love euphemisms as much as the next person. When I was a kid I always told my parents about my "excess of net costs" whenever I ran out of allowance early. And now my wife and I constantly discuss over dinner how our household revenues don't quite meet our net costs.

But what we don't do — nor would anyone else handling family or corporate finances — is pretend we have more money than we need — a surplus — even though our costs exceed our revenues.

According to the numbers made official last week by the government, America ran a \$133.8 billion deficit in the fiscal year ended last September. There was no surplus, despite what you've been reading. It was a deficit — "in the red," "out of bucks," "broke," "net costs over revenue." Call it whatever you like.

of a sane market would be to worry that big users, like airlines, might suffer reduced earnings. And in rational times the whole market might be weak because, hey, who isn't hurt when the price of oil rises?

Not only doesn't Wall Street worry that oil prices have climbed, but it last Friday (before the whole market sold off) pushed the Dow Transportation index to a record high. Why? Because, obviously, higher jet fuel prices are exactly what airlines want.

Making the situation even less logical is the fact that the military confrontation in Yugoslavia — with the threat of ground troops being deployed — makes the entire world economy and oil prices unpredictable.

Bottom line: There is a stock market bubble, enjoy it while it lasts, get out before it ends.

It is becoming ever clearer just

More protest BT merger

By BETH PISKORA

Jewish groups have new allies in their drive to block the merger of Deutsche Bank and Bankers Trust — former clients of the Bankers Trust estate department who allege mismanagement.

The two groups will be picketing outside Bankers Trust's headquarters today, handing out literature and carrying signs that say "Bankers Dis-Trust."

They want federal regulators to postpone the merger until allegations of Deutsche Bank's complicity with the Nazi government, and litigation against Bankers Trust, are settled.

Suzanne McCormick, of Dobbs Ferry, N.Y., will be there. Her family has sued Bankers Trust, claiming it mismanaged the estate of her late husband, millionaire management consultant Edmund J. McCormick Sr.

"A husband and father's clear and precise wishes concerning the disposition of his assets — art, stocks, bonds, and major commercial and residential properties — were totally disregarded in favor of other agendas," McCormick said.

A Bankers Trust spokeswoman declined comment.

Ongoing litigation is the last thing Deutsche Bank and Bankers Trust need as they try to close their much-vaunted deal to create the biggest financial services company in the world.

Just last week, Bankers Trust shareholders voted their approval of the deal.

But the two firms lack government approval for the deal, and some politicians have raised questions about the need to settle Holocaust-era claims before rubber-stamping the deal.

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N.Y. Post May 3, 1999

Page 39

Exhibit 64

Ten Things

BY MICHELE MARCHETTI

Ten Things Your Estate Planner Won't Tell You

"You probably don't need me."

LET'S FACE IT: Estate planning is scary. Not only does it involve protecting your hard-earned assets, but it makes you think about that dreaded topic: death. That's probably why many of us run to an estate planner when it's time to write a will.

Not so fast. "The overwhelming majority of estates don't trigger the federal estate tax," says Don Roberts, national spokesman for the IRS, adding that you must be worth at least \$675,000 when you die to pay tax at all. If you fall below that—and don't have any complicated estate issues—you probably don't need a lawyer to draw up a will. Instead, you can use the software WillMaker (\$40 at Amazon.com) and dispense with the whole task in an afternoon.

"Estate planning isn't my thing."

WHAT DOES IT take to call oneself an estate planner? Not much, it turns out. Some estate planners are financial planners. Others are CPAs. Many are lawyers. But none of those titles guarantees an intricate knowledge of estate planning. "If you have a \$50 million estate and you ask a lawyer if he does estate planning, the answer you'll get 100 percent of the time is an enthusiastic 'Yes, I do,'" says Tony Fiorillo, a financial adviser who helps victims of dishonest investment advisers.

Robert N. Sacks, chairman of an American Bar Association estate committee, says

you should stick with a lawyer who specializes in estates. The ultimate badge of competency: membership in the American College of Trust and Estate Counsel (ACTEC), an invitation-only national organization. (You can search ACTEC attorneys in your area at www.actec.org.)

"I'd love to be your executor."

WHO SHOULD EXECUTE your will once you're gone? It's a tricky question, especially for parents who don't want to favor

one child over another but also don't want to entrust the job to the son who depleted his 401(k) for a new Miata.

In your time of indecision, you may find your estate planner offering to take the job. The reason? Executors pull in hefty fees. "It guarantees future employment or retirement money," says Stephen McDaniel, an estate attorney and president of the Estate Law Specialist Board, which accredits estate attorneys. In California, where executor fees are based on the estate's size, a \$1 million estate would pay \$21,000 to the executor. Many people give the job to family members, who



often refuse payment. A relative stranger probably won't do the same.

"You don't need a living trust."

LIVING TRUSTS HAVE been a favorite estate planning tool of the past decade, and it's easy to see why. Living trusts allow your estate to transfer property and assets outside the clunky probate process, saving your heirs time and money. Overzealous planners love them, too, since setting one up can boost their bill. "I've had several clients who had gone to an estate planner and were pressured into setting up a living trust," says John Huggard, an estate planner and author of *Living Trust, Living Hell: Why You Should Avoid Living Trusts*. "It drove the cost of a basic estate plan from \$500 to \$3,500."

While the prospect of a long probate can be enough of a deterrent to justify the cost of a living will, that's becoming less the case. David Scull, a probate attorney in Bethesda, Md., says that in the past few years many states (including "almost everything west of the Mississippi") have simplified their probate processes. Two exceptions: If you live in a big city or own property in two states, probates are still tedious. But in most cases, he says, "if the executor is organized, it's possible to do a \$10 million estate in minutes."

"I make more money in insurance than planning your estate."

JOHN SCHERER, a financial planner and former Northwestern Mutual Life insurance agent, recently met a client who needed estate planning. Scherer referred him to an attorney who charged about \$7,500 to draft a will. In order to fund his estate tax liability, the same client is considering buying life insurance. Scherer predicts that the commission on such a policy will put about \$10,000 in some lucky agent's pocket.

Given that financial incentive, it's no



wonder so many estate planners have muscled their way into the insurance business, too. Despite the obvious conflict of interest—planners who sell insurance have an incentive to recommend it—it's gotten a lot easier for planners to do both. That's because many states have recently rewritten their laws so that certified public accountants, when doing estate planning, can sell insurance and collect a commission. While it's required that the financial incentive be disclosed, many planners aren't doing so. It's a "huge" problem, says attorney Jay Adkisson, who runs Quatloos.com, a Web site that tracks financial scams. His site has received dozens of e-mails from people complaining that their CPA or attorney pitched life insurance but didn't mention a commission.

"If someone says, 'I'm going to help you with estate planning,' and a product is a central point in the presentation—run, don't walk," advises John Olsen, an estate planner in St. Louis.

"My customer service stinks."

THE TAX CODE gets a major revision about every other year, and people's lives change constantly. Yet some clients are lucky if they hear from their estate planner after the initial meeting.

Part of the reason is that many estate planners started practicing years ago, when the idea of actually maintaining a

plan was a foreign concept: Back then people changed jobs less often, moved investments less frequently and, frankly, amassed wealth less quickly, says Kathleen O'Blennis, an estate planner with the Castleman Law Firm in Pleasanton, Calif. "But we're shifting from a mentality in which you signed your will and no one touched it until someone died, to one where planning is an ongoing issue."

Don't take it for granted that your planner will hold your hand once your initial plan is in place. O'Blennis has one client who, under a previous planner, sold his home and failed to transfer the new home into the existing trust. O'Blennis salvaged the trust, but it cost the client thousands of dollars. O'Blennis's advice: "If I were looking for a planner, I'd ask what they're going to do to help me maintain this thing once the animal is born."

"Your pushy sister is your problem."

SURE, ESTATE PLANNING is about money, but it's also about family. Good luck finding a planner who knows something about both. "[Planners] are so entrenched in the tax game that they forget about how the estate plan will ultimately impact the family after a death," says Mike Smith, a court-appointed guardian of estate disputes in Gwinnett County, Ga.

This can get really bad when a "family limited partnership" is involved. This estate planning tool, which lets people slash estate taxes and protect assets from creditors, divides ownership of the assets among family members. The general partner makes all the decisions, while the limited partners simply reap financial benefits.

Gerald Le Van, an estate attorney and family-business consultant, has worked on a handful of family limited partnerships that were headed toward litigation because the siblings just couldn't get along. His advice is to anticipate problems early. Lesson one: "Siblings will take orders from parents, but not from each other."

"I'm in bed with the bank."

YOU MAY NOT know it, but your planner might have other relationships that could affect your estate. Take the case of management consultant Edmund McCormick. In 1985 he appointed Bankers Trust as corporate fiduciary of his \$37 million estate. After his 1988 death, Bankers Trust appointed the law firm White & Case to represent the estate through probate. As it turns out, White & Case is also a Bankers Trust attorney, meaning that the estate had no unbiased legal representation, says Patrick Hanley, spokesman for Edmund McCormick's widow, Suzanne.

Hanley says that White & Case failed to go after two of the estate's co-executors who were allegedly involved in the embezzlement of \$232,000 from the estate. To him the reason is clear: Such a lawsuit would have been embarrassing for Bankers Trust, which failed to catch the problem early. In 1998 Suzanne McCormick and her family filed objections against the bank with the Surrogate Court in White Plains, N.Y., alleging mismanagement of the estate and breaches of fiduciary duties. To add insult to injury, White & Case was paid \$250,000 out of the estate for its services. (White & Case declined to comment, since the matter is in litigation. The lawyer representing Bankers Trust disputes the claims, saying that White & Case acted without bias.)

McCormick's situation isn't isolated. "The banks and lawyers are having collusive relationships," says Standish Smith, founder of Heirs, a nonprofit organization in Villanova, Pa., that helps beneficiaries with complaints regarding trusts and estates. "It's hard to figure out if the lawyer is working for the client or the bank."

"Tax laws confuse me—a lot."

LAST YEAR, after Donald Goddard's wife died, he asked attorney Stephanie Rapkin to update his trust. According to Rapkin, the planner who originally drafted the pa-

pers made an egregious mistake—one so bad that Goddard lost all his tax benefits. "There's nothing I can do," says Goddard. Fortunately for him, the estate tax exemption is increasing in 2006 to \$1 million, which is right around the value of his estate. "Let's hope I live to 2006," he says.

Indeed, tax-law screwups are one of the most common causes of estate planning-related malpractice lawsuits, according to Sacks. "Laws are ever changing, and it takes time to keep current."

"Sue me. You'll never win."

IN DONALD GODDARD'S case, the mistake his estate planner made was discovered while Goddard was still alive. In most cases, however, your planner's blunders won't surface until long after you're gone. And that can create big problems if your heirs want to sue for malpractice.

"The key witness is dead," says Bruce Ross, an estate planner and trust lawyer in Los Angeles. If a planner makes a mistake but has malpractice insurance, beneficiaries have a shot at getting their due. This is yet another reason to use an estate specialist. "If a lawyer says he's a specialist, he's held to a higher standard," says Ross.

But if you live in New York, Maryland, Ohio, Texas, Colorado, Nebraska or Virginia, cases brought by beneficiaries are impossible to prove. Thanks to an antiquated legal concept called "privity," heirs in those states can't go after estate planners. It works like this: If a dealer sells you a bad car and you sell it to your neighbor, the neighbor can't sue the dealer because he's one step removed. The same applies to planners, who enter into a contract with their client—not the client's children. According to Ross, the fact that some states haven't budged on it has little to do with logic: "It's just a matter of history." ■

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Widow pickets executor in dispute over estate

Disagreement over name of firm in 'letters of testamentary' sparks extended litigation.

By STEPHANIE MURPHY, Daily News Business and Real Estate Writer

Thursday, January 13, 2005

Suzanne McCormick of Manalapan pickets Wednesday outside the Royal Palm Way office of Deutsche Bank, which acquired Bankers Trust more than five years ago.

McCormick, who has been in litigation with Bankers Trust for seven years, said she appeared at the parent firm's Palm Beach office to protest her treatment by Bankers Trust and its law firm, White & Case.

She is the widow of Edmund J. McCormick Sr., who died in November 1988 after a successful career as a real estate investor, consultant to Fortune 500 companies and prominent collector of Victorian art.

McCormick Sr. named Bankers Trust Co. as his fiduciary/executor. His widow insists that officials in Westchester County, N.Y., issued "letters of testamentary" in 1989 to Bankers Trust Co. of New York, which is not the entity her husband selected as his fiduciary.

Before his death, her husband had accumulated "a sizeable estate" of art, stocks, bonds and a major real estate portfolio, McCormick said.



(enlarge photo)

Suzanne McCormick pickets outside Deutsche Bank's Palm Beach office Wednesday to protest her treatment since her husband died in 1988

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SUNDAY,
FEBRUARY 6, 2005

Widow sustains battle against bank

Bankers Trust misused her wealthy husband's estate, she says.

By MARY McLACHLIN
Palm Beach Post Staff Writer

PALM BEACH — Suzanne McCormick is clearly a woman of style, whether stepping along a sidewalk in pearls, pink picture hat and over-the-shoulder picket signs or seated at a Steinway playing a Chopin sonata.

Her crusade against one of the world's financial giants has kept her from the concert stage and the practice hall in recent years.

Her public appearances now consist mainly of marching for her cause, in front of the New York City offices of Deutsche Bank or beneath the royal palms swaying high above the Palm Beach branch.

The name was Bankers Trust, before Deutsche Bank Group bought it for \$10 billion in 1999. For the past decade, McCormick has been telling the world to beware of the institution by any name.

She alleges the bank mis-



LANNIS WATERS/Staff Photographer

Suzanne McCormick, 69, has been picketing Bankers Trust, now under Deutsche Bank, in Palm Beach (above) and New York for nine years.

handled the estate of her late husband, millionaire management consultant, real estate investor and art collector Edmund J. McCormick.

"Don't trust Bankers Trust," say the fliers she hands out. "The McCormick family did and that was a big mistake."

To the bank's consternation, the family sometimes employs the graphic aid of a 12-foot-tall inflatable rat when

picketing the New York offices. Even on the seen-everything sidewalks of Wall Street or 52nd Street, that gets attention.

Deutsche Bank said in a statement that McCormick's allegations are "without merit" and that it would "continue to vigorously defend ourselves against any remaining claims."

The bank also emphasized that the McCormick account

See MCCORMICK, 5C ►

Husband instructed bank to manage, invest money

► McCORMICK from 1C

originated in New York, not in Palm Beach.

Edmund McCormick died of kidney failure in November 1988. Four months earlier, a statement of his property, stocks, bonds, cash and valuables put their gross value at \$37 million and net at \$24 million.

To his wife, he left \$500,000 and stock in his management company, plus the couple's house in Dobbs Ferry, N.Y., their house in Manalapan and a collection of 19th-century British paintings they had accumulated during nearly 20 years of marriage: all told, about \$4.5 million in cash, real estate and art.

He left \$100,000 to each of his five children from a previous marriage and made a handful of other bequests. Then his will directed the bank, as the institutional executor, to put the rest of the estate in trust, invest and manage the money and use half of the proceeds to give his wife a lifetime income. She also could draw up to \$50,000 a year from the principal.

After she died, everything was to be divided among his children and grandchildren.

Estate left with no money

Suzanne McCormick and her stepchildren have accused Bankers Trust of repeatedly failing its fiduciary duty to protect them and the estate's assets.

The allegations began when the family found out that White & Case, the internationally known Wall Street law firm appointed to represent the estate, was also on retainer to the bank. The firm was paid \$250,000 out of the McCormick money.

Deutsche Bank says White & Case didn't have



BILL INGRAM/Staff Photographer

Suzanne McCormick says the battle over her husband's estate has sapped her music career. The talent is there, but not the spirit.' In 2001, Edmund McCormick's children settled with the bank.

never formed the trust. They just ignored the will. I never received any income."

Deutsche Bank says it's "standard practice to dispose of assets, such as stocks, which are subject to dramatic short-term fluctuation."

The bank said the stock portfolio had to be liquidated to pay taxes and other expenses, and the trust wasn't set up because not enough money was left after everything was paid.

Protests by the McCormicks and other unhappy heirs were relatively minor problems for Bankers Trust during the 1990s.

The bank was fighting far more serious allegations of fraud, cooking its books and helping Enron hide billions of dollars in offshore tax shelters for huge fees.

As the merger with Deutsche Bank was nearing completion in 1999, Bankers Trust pleaded guilty to diverting \$19 million of unclaimed funds into its own coffers and falsifying records to hide it. The bank paid a \$60 million fine to the federal government and \$3.5 million to New York

widow. She says she has paid more than \$600,000 in legal fees and expenses, and knows the costs will go higher. But she vows not to give up her "educational picketing."

"The public ought to be informed about this," she said. "A lot of widows don't know what to do when their husbands die, and they probably try to live on whatever they get. That's why a lot of this is hidden."

Patrick Hanley, a New Yorker who works as investigator and spokesman for McCormick, says the battle over her husband's estate ended her music career.

"She's lost at least 10 years, if not more," Hanley said. "Basically, they want to bleed her, drain her emotionally, physically and materially, and try to destroy her."

McCormick says playing the piano now makes her sad.

"The talent is there, but not the spirit," she said as she and a friend picketed and handed out leaflets in Palm Beach. "I want to succeed at whatever I do, and this is what I do now. I can't stand being walked over."

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The allegations began when the family found out that White & Case, the internationally known Wall Street law firm appointed to represent the estate, was also on retainer to the bank. The firm was paid \$250,000 out of the McCormick money.

Deutsche Bank says White & Case didn't have any conflict of interest because the firm drafted Edmund McCormick's will, and "it is customary to have the firm that drafts the will serve as counsel for the estate." The bank also says all five executors, including Suzanne McCormick, appointed the law firm, but McCormick says the executors never voted.

The family alleged the bank closed a \$1.5 million account four days before Edmund McCormick died, while he was in a coma, with no explanation of who authorized the closure or where the money went. They said the bank liquidated a \$7 million stock portfolio, then used the money to make loans to one of McCormick's sons for unsound real estate deals and did nothing when an employee of the son embezzled \$132,000 from the money.

"Within two years, the estate was insolvent," McCormick said. "They

never received any income."

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A felon can't be a fiduciary under New York state law, but the bank got around it by creating a new entity to handle its trust business, then getting special dispensation from the state board of parole and the state banking department to stay in business.

The bank was supposed to notify the beneficiaries of all the estates and trusts it held, so they could object if they wanted to, but it didn't notify Suzanne McCormick, according to court documents.

In 2001, Edmund McCormick's children agreed to a confidential settlement with Deutsche Bank and were dropped from the litigation.

"The children were tired," Suzanne McCormick said. "They wanted to settle, and they settled for peanuts."

She acknowledges she is far from an impoverished

legal fees and expenses, and knows the costs will go higher. But she vows not to give up her "educational picketing."

"The public ought to be informed about this," she said. "A lot of widows don't know what to do when their husbands die, and they probably try to live on whatever they get. That's why a lot of this is hidden."

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Staff researcher Sammy Alston contributed to this story.

● mary_mclachlin@pbpost.com

Suzanne McCormick

Concert Pianist

231 Clinton Avenue
Dobbs Ferry, New York 10522

Via Certified Mail
Return Receipt Requested
P 338 919 619
P 338 919 620

November 2, 1996

Mr. William J. Wilkie
Managing Director
Bankers Trust Company
280 Park Avenue
New York, New York 10017

Winthrop Rutherford, Jr., Esq.
White & Case
1155 Avenue of the Americas
New York, New York 10036

Dear Messrs. Wilkie & Rutherford,

I have two questions as follows:

1. Why have I not had an answer to my questions in my letter dated September 26, 1996, including a copy the IRS Estate Audit and also the Buy-Sell Agreement?
2. Why do the statements from the Bankers Trust Company list the amount Eddie McCormick, Jr. owes as only \$215,000. which is in default? We know that you have loaned him more than that. What about all the interest he owes! Why is this not listed on the statement?

I know as the main beneficiary, wife - widow and executrix I have the right to these answers and documents. I must insist that you answer all my questions.

If you do not know how to answer my questions at least let me know. Of course, I shall continue to take the necessary action that I must for 'Justice.' You people should remember, it was and is my money not yours - you people seem to have forgotten that!

Sincerely yours,


Mrs. Suzanne McCormick

Exhibit 68

Sm/ms

Continued On Page Two

Messrs. Wilkie & Rutherford
Via Certified Mail

November 2, 1996
Page Two of Two Pages

cc:

Mr. William J. Wilkie, Certified Mail # P 338 919 619
Winthrop Rutherford, Jr., Esq., Certified Mail # P 338 919 620
Mr. Richard Marin, Managing Director, Bankers Trust Company,
Certified Mail # P 338 919 621
Mrs. Sue E. Strosahl, VP, Bankers Trust Company,
Certified Mail # P 338 919 622
Mr. Henry A. Zarzicki, VP, Bankers Trust Company,
Certified Mail # P 338 919 623
Mr. Edmund J. McCormick, Jr., Certified Mail # P 338 919 624
Mr. Herman Markowitz, CPA, Certified Mail # P 338 919 625
Mr. Michael Philip, Certified Mail # P 338 919 626
Frederick Vogt, Esq., Mr. Dennis McCormick, Mr. David McCormick,
Ms. Ann McCormick, Ms. Laurie McCormick, Mrs. Helen Leaver,
Mr. David Velderman

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MEXICO CITY

DATE: November 19, 1996 NO. OF PAGES INCLUDING THIS COVER SHEET: 2

TO: Frederick Sembler, Esq.

COMPANY: Milbank, Tweed, Hadley & McCloy FAX NUMBER : 212-530-5219

cc: Winthrop Rutherford, Jr., Esq.; Joan M. McGivern, Esq.

SENDER: Lori Perlman SENDER'S NO.: (212) 819-8309

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THIS SPACE MAY BE USED FOR SUPPLEMENTAL MESSAGE

Dear Mr. Sembler:

I received your message last week concerning some changes that you intend to propose that we make to descriptions of transactions in the Account for the Estate of Edmund J. McCormick. I understand that your attention has been directed to another matter, and that you may not have had an opportunity to focus on the McCormick Account. Nevertheless, I wanted to take this opportunity to advise you of the reason why Win Rutherford and I have been calling, and to express our concern that the Petitions and Account be filed as promptly as possible.

Suzanne McCormick wrote to Mr. Wilkie and Mr. Rutherford on September 26, 1996 with questions concerning the administration of the Estate. We have not responded to this letter, as we intended to respond simultaneously with the filing of the Account. On November 2, 1996, Ms. McCormick sent a follow up letter requesting a response and indicating that she intends to "continue to take the necessary action that I must for 'Justice.'" Within the last day or so, Mr. Markowitz received separate but similar correspondence from several of the McCormick children requesting that he support them in their effort to have Mike Philip "deposed." Mr. Philip was the trust officer for the McCormick Estate at Bankers Trust Company, who has since retired.

This recent correspondence, as well as Ms. McCormick's latest picketing at Bankers Trust and White & Case in early November, has heightened our desire to file our Petitions and Account before Suzanne or

Exhibit 69

✕ The McCormick children bring a proceeding against the Executors. Such an action would place our Petitions in a defensive light, whereas we currently have an opportunity to present our petitions to the Court without any negative atmosphere. Our Petition is now fully executed, Mr. Wilkie and Mr. Markowitz have signed off on the Account, and we will be receiving a clean copy of the Account tomorrow morning.

With these considerations in mind, we hope that you will be in a position to focus on the Account in the near future, and to give us an indication of the changes that you would like to see in the Account.

Please let either me or Win know if you need any further information.

Best Regards,

Lori J. Perlman
Lori J. Perlman

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

In the Matter of the Petition of BANKERS TRUST
COMPANY and HERMAN MARKOWITZ for
Settlement of their Account as Co-Executors of the
Last Will and Testament of

File No. 3522-1988

EDMUND I. MCCORMICK

Deceased,

AFFIDAVIT

and for a direction pursuant to SCPA §2215 for
repayment of excess distributions to an interested
party, and for recovery of estate assets due from
Edmund J. McCormick, Jr. and Bank Street Investment,
Inc. of the McCormick Organization

In the Matter of the Proceeding by ALFRED S.
HOWES for Settlement of Account as Co-Executor
of the Last Will and Testament of

EDMUND I. MCCORMICK

Deceased

STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

Wendrop Rutherford, Jr., being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice law in the Courts of this state and am a member of the firm of White & Case, LLP ("White & Case"), attorneys for the estate of Edmund I. McCormick in the above-captioned proceedings. (I understand that Bankers Trust Company, Herman Markowitz and Alfred S. Howes, three of the co-executors of said estate, have hired separate counsel to represent them with respect to the objections to their Final Account of Proceedings as filed by Suzanne McCormick ("Suzanne") and certain other McCormick family

Exhibit 70

members, and Edmund J. McCormick, Jr. White & Case does not represent any of the co-executors with respect to such objections.) Except as otherwise indicated, I make this Affidavit based upon my personal knowledge of the facts recited herein.

2. As counsel for the estate of Edmund J. McCormick from the date of his death in November 1988 to the present, I am fully familiar with all aspects of the estate's administration.

3. To the best of my knowledge, Suzanne participated fully in the administration of the decedent's estate. Suzanne was not, as I am informed she contends, encouraged to refrain from participating in the decisions made by the co-executors.

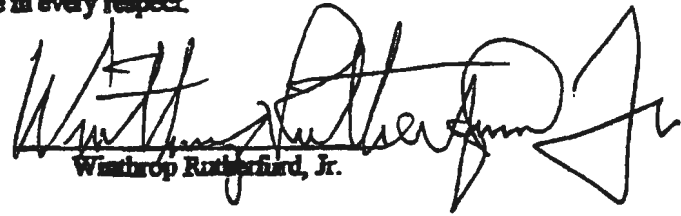
4. I am informed that Suzanne claims that White & Case provided her with "inaccurate, deceptive or incomplete information" with respect to the estate's real estate assets held in partnership form. This claim is untrue. To the best of my knowledge, Suzanne received true and accurate information necessary to making executorial decisions.

5. I am informed that Suzanne now contends that the estate improperly failed to pursue an alleged malpractice claim against the decedent's personal accountants. Suzanne told me, prior to the time her objections were filed, that *her advisors* were auditing the decedents' income tax returns to determine whether the estate had a malpractice claim against the decedent's personal accountants. Suzanne provided me with few details of the potential claim and never reported the results of her investigation to me.


6. I am further informed that Suzanne claims the estate has provided her with "little or no benefit" to date. Suzanne has received distributions of estate assets valued at over \$4,000,000.

7. It is my recollection that, as counsel to the estate, I personally attended every executors' meeting and reviewed the minutes of those meetings. It was my intention that the

minutes of the executors' meetings, including the minutes I am informed are attached as exhibits to the Affidavit of David Keyko, dated January 12, 1998 and as exhibits to the Claims, correctly reflect the discussions and decisions that occurred during those meetings, and it is my understanding that the minutes are accurate in every respect.


Winthrop Rutherford, Jr.

Sworn to before me this
12th day of January 1999.



Notary Public

EDWARD F. MORAN
Notary Public, State of New York
No. 31-4957922
Qualified in New York County
Commission Expires Oct. 23, 1999

FILE NO. 3522-1988 YEAR.....

**SURROGATE'S COURT OF THE
STATE OF NEW YORK**

COUNTY OF WESTCHESTER

**In the Matter of the Petition of BANKERS TRUST
COMPANY and HERMAN MARKOWITZ for Settlement of
Their Account as Co-Executors of the Last Will and
Testament of**

EDMUND J. McCORMICK,

Deceased,

**and for a direction pursuant to SCPA § 2218 for
repayment of excess distributions to an interested party,
and for recovery of Estate assets due from EDMUND J.
McCORMICK, JR. and BANK STREET INVESTMENT,
INC. d/b/a McCORMICK ORGANIZATION.**

**In the Matter of the Proceeding by ALFRED S. HOWES
for Settlement of Account as Co-Executor of the Last Will
and Testament of**

EDMUND J. McCORMICK,

Deceased.

**AFFIDAVIT
OF
WINTHROP RUTHERFUND, JR.**

**WINTHROP, STIMSON, PUTNAM & ROBERTS
ATTORNEYS FOR Co-Executor Bankers Trust Company**

**ONE BATTERY PARK PLAZA
BOROUGH OF MANHATTAN,
NEW YORK, NY 10004-1480**

**TELEPHONE
858-1000**

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

-----X
Petition of BANKERS TRUST COMPANY,
HERMAN MARKOWITZ and ALFRED S. HOWES :
for Settlement of their Account as :
Co-Executors of the Last Will and :
Testament of :

AFFIDAVIT OF
LEGAL SERVICES

EDMUND J. McCORMICK

Deceased,

File No. 3522/1988

and for a direction pursuant to SCPA §
2215 for repayment of excess :
distributions to an interested party, :
and for recovery of estate assets :
pursuant to SCPA § 2103. :
-----X

STATE OF NEW YORK)
 : ss.
COUNTY OF NEW YORK)

WINTHROP RUTHERFURD, JR., being duly sworn, deposes
and states as follows:

1. I am an attorney admitted to practice in the
State of New York, and have been a member of the firm of
White & Case since 1976. I make this Affidavit based on my
personal knowledge and the files and records of White &
Case.

2. White & Case drafted the Last Will and
Testament of Edmund J. McCormick (the "Decedent") dated
November 20, 1985 (the "Will"), and represented the
Decedent in personal matters from July of 1985 until the
date of his death on November 27, 1988. Upon his death,

Exhibit 71

White & Case was retained by the Executors of the Estate of Edmund J. McCormick (the "Estate"), namely Bankers Trust Company, Suzanne McCormick, Edmund J. McCormick, Jr. ("Mr. McCormick, Jr."), Herman Markowitz and Alfred S. Howes.

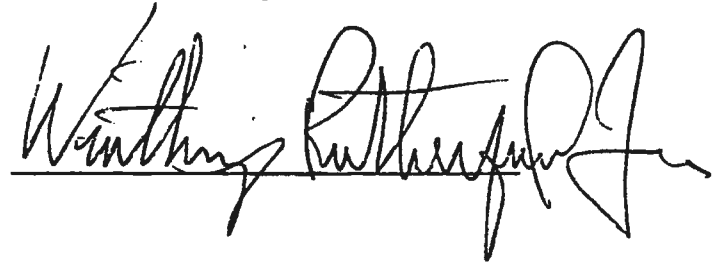
3. White & Case thereafter provided necessary services to the Executors and to the Estate in connection with the probate of the Will, in connection with the administration of the Decedent's Estate, and in connection with the preparation and filing of the petition for a voluntary accounting filed herewith.

4. During the course of administering the Estate, White & Case provided advice to the Executors concerning their rights and responsibilities arising in connection with the liquidation of certain partnerships created by the Decedent and his son, Edmund J. McCormick, Jr. (the "Partnerships"), and with the sale of the real properties owned by those Partnerships. The Estate was responsible for the management, control and ultimate liquidation of nine commercial rental properties, eight of which were held in the Partnerships.


5. From almost the beginning of the administration of the Estate, Mr. McCormick, Jr. asserted his alleged rights with respect to (i) an option to purchase the Estate's interest in the Partnerships, (ii) the Estate's right to sell the Partnership property and

Bar of the City of New York and the New York State Bar Association.

12. In addition to myself, services to this Estate were rendered primarily by Mary McQuillen, Sarah Beeton Capel, Janet O'Connor, and Gregory Cerbone, all senior associates in the Trusts & Estates department at the time of their involvement with the Estate. Several other partners and associates also provided services to the Estate during the eight years that White & Case served as counsel. The aggregate hours devoted to the Estate through June 28, 1996 were 3,185.30, which does not include the time incurred in the preparation of either the Petition for a Voluntary Accounting or this Affidavit of Legal Services. Based upon the usual and regular charges of White & Case, the fee for these services totals \$855,221.52, of which \$250,000 has been paid by the Estate, leaving a balance of \$605,221.52. The total cost for disbursements for this period was \$28,153.83, of which a total of \$1,284 was incurred solely in connection with the filing of documents in court.



Sworn to before me on
November 26, 1996.



Notary Public

SUSAN PATSALOS
Notary Public, State of New York
No. 31-508531
Qualified in New York County
Commission Expires Feb. 12, 1997

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF DUTCHESS

In the Matter of the Petition of BANKERS
TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of Their
Account as Co-Executors of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased,

and for a direction pursuant to SCPA
§ 2215 for repayment of excess
distributions to an interested party, and for
recovery of Estate assets due from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

File No. 3522-1988

**AFFIDAVIT OF E. LEO MILONAS IN
FURTHER RESPONSE TO MOTION
OF DOWD & MAROTTA LLC FOR
WITHDRAWAL**

In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

E. Leo Milonas, being duly sworn, deposes and says:

1. I am a member of the law firm of Pillsbury Winthrop LLP, counsel for Bankers Trust Company, now known as Deutsche Bank Trust Company Americas (referred to herein as "Bankers Trust" or the "Bank") in this matter with respect to the objections to Bankers

Exhibit 73

Trust's and Herman Markowitz's Final Account (the "Final Account") of their proceedings as co-executors of the Estate of Edmund J. McCormick (the "Estate") for the period from November 27, 1988 through July 25, 1996. I make this affidavit in reply to the Affidavit of Suzanne McCormick dated January 21, 2004 asking this Court to disregard the Affidavit of David G. Keyko dated January 12, 2004, which was filed in response to the application of Mrs. McCormick's counsel, Dowd & Marotta LLC ("Dowd & Marotta"), for an order of this Court permitting that firm's withdrawal as Mrs. McCormick's counsel of record.

2. McCormick's affidavit neither supports nor opposes her attorneys' request to be relieved as counsel of record in the above-captioned proceedings. Nor does Mrs. McCormick's affidavit suggest that she has taken any affirmative steps to secure new representation, despite the fact that she notified Dowd & Marotta over four months ago that she was terminating their services. Rather, without disclosing her own position, Mrs. McCormick insists that the Court disregard the Bank's views on her counsel's application. While the vast majority of Mrs. McCormick's affidavit consists of unsupported allegations that bear no relationship to her attorneys' request for withdrawal, this affidavit nevertheless responds in brief to the more serious charges made by Mrs. McCormick.

The Estate of Edmund J. McCormick Is Represented By Counsel

3. Mrs. McCormick's assertion that the Estate is without proper legal representation is untrue. The Estate has always been, and continues to be, represented by the law firm of White & Case LLP. It is for this reason that our firm's filings on behalf of the Bank specifically note that we represent Bankers Trust only with respect to the objections to the Final Account. On all matters concerning the continued administration of the Estate, White & Case LLP remains counsel of record.

Deutsche Bank Has Standing to Act as Co-Executor

4. Mrs. McCormick's suggestion that Deutsche Bank is acting without authority as co-executor of the Estate is also untrue. Bankers Trust Company, named as one of five co-executors of the Will of Edmund J. McCormick (the "Will"), was organized under the laws of the State of New York in May 1903 and was authorized by the New York Banking Department to conduct the business of a trust company in the State. At the time the Will was admitted to probate in 1988, the Bank was still operating under its original name. In February 2002, however, Bankers Trust Company's Organization Certificate was amended under Section 8005 of the Banking Law to change the name of the corporation to Deutsche Bank Trust Company Americas, effective April 15, 2002. Attached hereto as Exhibit 1 is a fair and accurate copy of a Certificate of Amendment of the Organization Certificate of Bankers Trust Company, dated February 27, 2002. The Certificate of Amendment was approved by the New York Banking Department on March 14, 2002. Attached hereto as Exhibit 2 is a fair and accurate copy of the Banking Department's approval of said Certificate of Amendment, dated March 14, 2002. Despite its name change to Deutsche Bank Trust Company Americas, the corporation is the *exact same entity* it was upon its creation in 1903 and is therefore authorized to act as co-executor under the Will.

The Bank is Not Prohibited from Serving as Co-Executor

5. Mrs. McCormick's assertion that the Bank's felony conviction precludes it from fiduciary service is similarly without basis, as is her contention that the conviction implicated the trust and fiduciary services arm of Bankers Trust. The unfortunate events were fully disclosed to the public long ago. The Bank's felony conviction stemmed from its *own* discovery and public disclosure, in March 1996, that certain employees of a unit called Client

Processing Services were improperly handling and accounting for unclaimed funds on the Bank's books. In some instances, those funds were improperly transferred to reserve accounts or to the Bank's income by employees seeking to bolster the performance of their department. (No instances of personal enrichment were found.) These improper transfers were hidden from the Bank's auditors as well as from regulatory examiners of the Bank. Upon the Bank's discovery of the improper transfers in 1996, it promptly reported the improper activity to the appropriate authorities (including the United States Department of Justice, the Federal Reserve Bank of New York, and the New York State Banking Department) and cooperated fully in the ensuing investigations. In addition, the Bank undertook a comprehensive forensic review of the transactions involved and sought to reimburse all affected customers or third parties that could be identified. The regulators agreed that the Bank returned the funds to the extent it was able to do so, and the balance was escheated to the appropriate authority or distributed in accordance with a plan approved by the Federal Reserve Bank of New York. Most importantly, the employees, accounts, and transactions involved were *completely unrelated* to the Bank's Private Banking area, which performs the trust and fiduciary services functions of the Bank.

6. In March 1999, to resolve the matter, the Bank entered into an agreement to plead guilty to a felony Information charging it with making false entries on the books and records of a federally regulated bank. On December 2, 1999, the New York State Board of Parole issued a Certificate of Relief from Disabilities, relieving Bankers Trust from the statutory bar prohibiting felons from qualifying as fiduciaries. A copy of the State of New York Certificate of Relief from Disabilities is attached hereto as Exhibit 3.

Mrs. McCormick Was Not Entitled to Notice of the 1999 Proceeding

7. Mrs. McCormick also suggests that the Bank has “unclean hands” because it failed to give her notice of a 1999 proceeding to substitute another bank entity -- Bankers Trust Company of New York -- for Bankers Trust Company as fiduciary with respect to certain designated trusts and estates then under administration and all future fiduciary relationships. As Mrs. McCormick knows, however, she did not receive notice of that proceeding for the simple reason that no substitution of fiduciary was sought with respect to her husband’s Estate. The Estate was -- and is -- unaffected by the outcome of that proceeding and notice to the Estate was therefore not required. In making the current accusation, Mrs. McCormick neglects to inform this Court that she recently filed a motion in New York Supreme Court to vacate the orders of substitution entered in the 1999 proceeding, arguing that she did not receive proper notice of the proceeding. Mrs. McCormick’s motion was voluntarily withdrawn by her after the Court admonished her for prosecuting a baseless claim. The Court has not yet ruled on the Bank’s cross-motion for sanctions for frivolous conduct.

The Account Filed by the Bank is Proper

8. Mrs. McCormick contends that the Bank’s petition for settlement of its account should be dismissed by this Court. This relief bears no relationship to the withdrawal application under consideration. Nevertheless, the Bank would like to point out that it intends to supplement its account down through a more current date to reflect the transactions of the executors from the last date of the account through the present.

9. Mrs. McCormick’s complaint that the scope of the analysis of FTI Consulting, Inc. (“FTI”) is too narrow is not only made too late, it is also untrue. During settlement negotiations between the Estate and Edmund J. McCormick, Jr., Mrs. McCormick

was provided with a number of drafts of the settlement agreement, and was given the opportunity to participate in its negotiation. While she ultimately chose not to sign the agreement, many of her suggested changes were incorporated into the final product. After the settlement agreement was signed, Mrs. McCormick was given timely notice of the Bank's application for court approval of the agreement, which set forth in detail the scope and exact nature of the analysis to be rendered by FTI. She chose not to object to the terms of the settlement at that time. Having received no objection to the terms of the agreement, this Court approved the settlement between Edmund J. McCormick, Jr. and the Estate by order dated June 3, 2003.

10. Nor is the scope of FTI's analysis flawed. FTI's charge is to examine the books and records of Edmund J. McCormick, Jr.'s management company, McCormick Organization, during the entire period of the Estate's administration that the company acted as manager of the real properties, namely, from November 1988 through August 1990.


Summary Judgment Motion Was Properly Made

11. Bankers Trust moved for summary judgment on February 27, 2001, while Mrs. McCormick was still being represented by the firm of Hall Dickler Kent Goldstein and Wood LLP ("Hall Dickler"). Hall Dickler was permitted to withdraw as counsel two months later, in March 2001. While Mrs. McCormick belatedly suggests that she was taken advantage of by the timing of the Bank's motion for summary judgment, she made no such claim at the time the motion was made. To the contrary, she cross-moved for summary judgment on May 29, 2001. The motion and cross-motion for summary judgment were fully briefed. Mrs. McCormick's papers were prepared and served by successor counsel, Oxman, Tulis, Kirkpatrick, Wyatt & Geiger LLP.

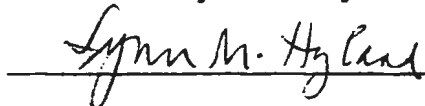
This Matter Should Proceed Expeditiously To Resolution

12. There appears to be no opposition to the application of Dowd & Marotta to withdraw as counsel of record to Mrs. McCormick. Regardless of whether the application is granted and regardless of whether Mrs. McCormick engages successor counsel or appears *pro se*, we ask that this matter proceed expeditiously to resolution and that Mrs. McCormick not be permitted to revisit discovery or other work already completed by her prior attorneys.

WHEREFORE, it is respectfully requested that the Court grant Dowd & Marotta's application for an order permitting that firm's withdrawal as counsel of record to Suzanne McCormick in the above-captioned proceedings, provided, however, that such withdrawal does not cause further delay in the resolution of the motions currently pending or anticipated to be made by Bankers Trust or the ultimate disposition of this case and that Mrs. McCormick not be permitted to revisit any discovery or other work already completed by prior counsel.


E. Leo Milonas

Sworn to before me
this 30th day of January 2004.



LYNN M. HYLAND
Notary Public, State of New York
No. 31-4805330
Qualified in New York County
Commission Expires Oct. 31, 2006

DEUTSCHE BANK TRUST COMPANY AMERICAS
(formerly Bankers Trust Company, name change effective on April 15, 2002)

CERTIFICATE

I, **Lea Lahtinen**, Vice President and Assistant Secretary of **DEUTSCHE BANK TRUST COMPANY AMERICAS**, a corporation duly organized and existing under the laws of the State of New York, United States of America (the "Company"), with its principal address at 130 Liberty Street, New York, New York, but is currently operating out of an alternate location at 31 West 52nd Street, New York, New York, **HEREBY CERTIFY THAT:**

1. The Company is in full force and effect, has not been dissolved and is validly existing under the laws of the State of New York on the date hereof, with its principal office at 130 Liberty Street, New York, New York, but is currently operating out of an alternate location at 31 West 52nd Street, New York, New York, as stated in the certificate dated March 26, 2003, received from the State of New York, Banking Department, and attached hereto as **EXHIBIT A**.

2. Attached hereto as **EXHIBIT B** is a true, correct and complete copy of the Restated Organization Certificate of Bankers Trust Company and four Certificates of Amendment of the Organization Certificate of Bankers Trust Company, the originals of which were filed in the Office of the Superintendent of Banks, State of New York, Banking Department on August 31, 1998, September 25, 1998, December 18, 1998, September 3, 1999, and March 14, 2002, respectively, and, as such, constitute the Organization Certificate of the Company as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of Deutsche Bank Trust Company Americas this 4th day of April, 2003.

Lea Lahtinen

Lea Lahtinen, Vice President and Assistant Secretary
Deutsche Bank Trust Company Americas

[SEAL]

State of New York)
) ss.:
County of New York)

On the 4th day of April in the year 2003 before me, the undersigned, a Notary Public in and for said state, personally appeared **Lea Lahtinen**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Bonja K. Olsen

Notary Public

BONJA K. OLSEN
Notary Public, State Of New York
No. 01OL4874457
Qualified in New York County
Commission Expires November 13, 20 *06*

State of New York,
Banking Department

I, P. VINCENT CONLON, Deputy Superintendent of Banks of the State of New York, DO HEREBY APPROVE the annexed Certificate entitled "CERTIFICATE OF AMENDMENT OF THE ORGANIZATION CERTIFICATE OF BANKERS TRUST COMPANY OF NEW YORK under Section 8005 of the Banking Law" dated March 5, 2002, providing for a change of name of BANKERS TRUST COMPANY OF NEW YORK to DEUTSCHE BANK TRUST COMPANY NEW YORK.

Witness, my hand and official seal of the Banking Department at the City of New York,

this 14th *day of* March *two thousand and two.*

P. Vincent Conlon
Deputy Superintendent of Banks



STATE OF NEW YORK **CORRECTED COPY**
CERTIFICATE OF RELIEF FROM DISABILITIES

FOR COURT OR BOARD OF PAROLE
 Document, File, or other identifying no.
99CR250
CR-99-164

This certificate is issued to the holder to grant relief from all or certain enumerated disabilities, forfeitures, or bars to his employment automatically imposed by law by reason of his conviction of the crime or of the offense specified herein.

This certificate shall NOT be deemed nor construed to be a pardon.

SEE REVERSE SIDE FOR EXPLANATION OF THE LAW GOVERNING THIS CERTIFICATE

The Original Certificate is to be presented to the person to whom awarded. One copy is to be retained by the issuing agency, and one copy is to be filed with the N.Y.S. Div. of Criminal Justice Services, Executive Park, Stuyvesant Plaza, Albany, N.Y. 12203

For use by DCJS	HOLDER OF CERTIFICATE			3. NYSD Number (If not known, copy fingerprints to DCJS. If fingerprints are unobtainable, complete items 15-18 below.)
	2. Last Name	First Name	Middle Initial	
Bankers Trust Company				
4. Crime or offense for which convicted		5. Date of arrest	6. Date of sentence	
Taking False Entries in Bank Books and Records (3 counts)		N/A	7/26/99	
7. Court of disposition (Court, Part, Term, Venue)		8. Certificate issued by:		
United States District Court Southern District of New York		<input type="checkbox"/> COURT INDICATED IN NO. 7 <input checked="" type="checkbox"/> STATE BOARD OF PAROLE		
9. Date this certificate issued		10. If this Certificate replaces Certificate of Relief From Disabilities previously issued, give date of previous Certificate.		
December 2, 1999		Date: <input type="checkbox"/> Not Applicable		

1. CHECK ONE BOX ONLY

This certificate shall:

- a. Relieve the holder of all forfeitures, and of all disabilities and bars to employment, excluding the right to retain or to be eligible for public office, by virtue of the fact that this certificate is issued at the time of sentence. The Date of Sentence in this case must agree with the Date Certificate Issued.
- b. Relieve the holder of all disabilities and bars to employment, excluding the right to be eligible for public office.
- c. Relieve the holder of the forfeitures, disabilities or bars hereinafter enumerated S.C.P.A. Section 707(1)d

2. This certificate shall be considered permanent.

- This certificate shall be considered temporary until _____ After this date, unless revoked earlier by the issuing court or parole board, this certificate shall be considered permanent. A person who knowingly uses or attempts to use a revoked certificate in order to obtain or exercise any right or privilege that he would not be entitled to obtain or to exercise without valid certificate shall be guilty of a misdemeanor.

13. Signature of issuing official(s)	Print or type name(s)	14. Title(s)
<i>Joseph J. Gawloski</i> <i>Daizee D. Bouey</i> <i>R. Guy Vizzie</i>	Joseph J. Gawloski Daizee D. Bouey R. Guy Vizzie	COMMISSIONER COMMISSIONER COMMISSIONER

Complete the following for DCJS, only if fingerprints are not obtainable

15. Sex	16. Color	17. Height	18. Date of Birth (Month, Day, Year)
<input type="checkbox"/> Male <input type="checkbox"/> Female		ft. in.	

Form DP-53 (Rev. 9/72)

I HEREBY CERTIFY, PURSUANT TO SECTION 2105 OF THE C.P.L.R., THAT I AM AN ATTORNEY ADMITTED TO PRACTICE BEFORE THE COURTS OF THE STATE OF NEW YORK, THAT I HAVE COMPARED THIS COPY WITH THE USG N.Y. THEREOF, AND THAT IT IS A TRUE AND COMPLETE COPY OF THE ORIGINAL.

[Signature]

LAWS GOVERNING THE ISSUANCE OF CERTIFICATES OF RELIEF FROM DISABILITIES

(The laws governing the issuance of certificates of relief from disabilities are set forth in Article 23 of the New York State Correction Law. The excerpts below summarize certain portions of those laws and are set forth merely for convenience. They are not intended as administrative interpretations and they do not relieve any party of full knowledge of and compliance with the applicable provisions of law.)

This certificate is issued to relieve the holder, an "eligible offender" as defined in § 700 of the Correction Law, of all or of enumerated forfeitures, disabilities, or bars to employment automatically imposed by law by reason of his conviction of the crime or offense specified on the face of this certificate.

This certificate shall be considered a "temporary certificate" where (1) issued by a court to a holder who is under a "revocable sentence" as defined in § 700 of the Correction Law and the court's authority to revoke such sentence has not expired, or (2) issued by the State Board of Parole and the holder is still under the supervision of the Board. Where the holder is under a revocable sentence, this certificate may be revoked by the court for violation of the conditions of such sentence and shall be revoked by the court if it revokes the sentence and commits the holder to an institution under the jurisdiction of the State Department of Correctional Services. Where the holder is subject to the supervision of the State Board of Parole, this certificate may be revoked by the Board for violation of the conditions of parole or release. Any such revocation shall be upon notice and after an opportunity to be heard. If this certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the court's authority to revoke the sentence or upon termination of the jurisdiction of the Board of Parole over the holder.

RIGHTS OF RELIEF FROM DISABILITIES

- A. Where the certificate is issued by a court at the time sentence is pronounced, it covers forfeitures as well as disabilities. In any other case the certificate applies only to disabilities.
- B. A conviction of the crime or the offense specified on the face of this certificate shall NOT cause automatic forfeiture of any license, permit, employment or franchise, including the right to register for or vote at an election, or automatic forfeiture of any other right or privilege, held by the eligible offender and covered by the certificate. Nor shall such conviction be deemed to be a conviction within the meaning of any provision of law that imposes, by reason of a conviction, a bar to any employment, a disability to exercise any right or a disability to apply for or to receive any license, permit or other authority or privilege, covered by the certificate. Provided, however, that no such certificate shall apply, or be construed so as to apply, to the right of such person to retain or to be eligible for public office.
- C. A conviction of the crime or the offense specified on the face of this certificate shall NOT prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified on the reverse side of this certificate as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or renew any license, permit or other authority or privilege.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF
BANKERS TRUST COMPANY OF NEW YORK (f.k.a.
DEUTSCHE BANK TRUST COMPANY) and
BANKERS TRUST COMPANY,

Petitioners,

For substitution of fiduciary relationships pursuant to New
York Banking Law 154

**AFFIDAVIT OF
DAVID G. KEYKO**

Index No. 99/121823

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

David G. Keyko, being duly sworn, deposes and says:


1. I am a member the law firm of Pillsbury Winthrop LLP, counsel for Bankers Trust Company, now known as Deutsche Bank Trust Company Americas (“BTCo”) and Bankers Trust Company of New York, now known as Deutsche Bank Trust Company New York (“Trust Co.”) (collectively referred to herein as “Bankers Trust” or the “Bank”) in this matter. I make this affidavit in opposition to the motion of Suzanne McCormick for an order (i) vacating prior orders of this Court substituting Trust Co. for BTCo with respect to certain existing fiduciary relationships and all future fiduciary relationships, to the extent such prior orders affect the Estate of Edmund J. McCormick; (ii) unsealing certain records that were impounded by orders of this Court; and (iii) clarifying whether the Court’s orders substituting Trust Co. for BTCo affect the Estate of Edmund J. McCormick. I also make this affidavit in support of the cross-motion of Bankers Trust for sanctions against Suzanne McCormick and her counsel based

Exhibit 74

(iii) the Court and Guardian *ad litem* in the § 154 Proceeding were aware that substitution was sought only with respect to designated relationships; (iv) BTCo is fully able to satisfy its financial obligations and is far from a "shell" entity; and (v) notice of BTCo's 2002 name change had properly been given. Attached hereto as Exhibit 9 are fair and accurate copies of letters dated March 28, April 15 and April 17, 2003 from counsel for BTCo to counsel for Mrs. McCormick. Mrs. McCormick's motive for prosecuting this motion despite notice of its deficiencies is clear -- and improper. She is seeking to use this Court to further her long-standing campaign to damage the Bank's reputation. *See, McCormick Aff.* ¶ 6, 10.


WHEREFORE, it is respectfully requested that the Court (i) with respect to Suzanne McCormick's motion, deny her application for an order vacating prior orders of this Court substituting Trust Co. for BTCo with respect to certain fiduciary relationships, to the extent such prior orders affect the Estate of Edmund J. McCormick, unsealing certain records that were impounded by this Court, and clarifying whether the Court's orders substituting Trust Co. for BTCo affect the Estate of Edmund J. McCormick; and (ii) with respect to the Bank's

cross-motion, impose sanctions against Mrs. McCormick and/or her counsel for their frivolous conduct.



David G. Keyko

Sworn to before me
this 21st day of April, 2003.



Notary Public

LYNN M. HYLAND
Notary Public, State of New York
No. 31-4805330
Qualified in New York County
Commission Expires Oct. 31, 2006

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

In the Matter of the Petition of BANKERS
TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of Their
Account as Co-Executors of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased,

and for a direction pursuant to SCPA
§ 2215 for repayment of excess
distributions to an interested party, and for
recovery of Estate assets due from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased.

File No. 3522-1988

**AFFIRMATION OF
E. LEO MILONAS
IN OPPOSITION TO SUZANNE V.
McCORMICK'S APPLICATION TO
DISQUALIFY OR RECUSE
SURROGATE SCARPINO, TO
REMOVE BANKERS TRUST AS AN
EXECUTOR, AND FOR AN
EXTENSION OF DISCOVERY
DEADLINE TO JANUARY 31, 2003**

I, E. Leo Milonas, do hereby affirm under the penalties of perjury that:

1. I am an attorney duly admitted to practice law in the State of New York and am a member of the law firm of Pillsbury Winthrop LLP, counsel for Bankers Trust Company ("Bankers Trust"), now known as Deutsche Bank Trust Company Americas, in this matter with respect to the objections of Suzanne V. McCormick ("Mrs. McCormick") to Bankers Trust's and Herman Markowitz's Final Account of their proceedings as co-executors of the Estate of Edmund J. McCormick (the "Estate") for the period from November 27, 1988 through July 25, 1996. I make this affidavit in opposition to Suzanne McCormick's Application To Disqualify Or Recuse Surrogate Scarpino, To Remove Bankers Trust As An Executor, And For An Extension of

Exhibit 75

Discovery Deadline To January 31, 2003. Unless otherwise indicated, this affidavit is based upon my knowledge of the relevant facts and my review of the Affirmation of Marc Oxman, dated October 21, 2002.

2. I participated in the negotiation of the Stipulation and Order (the "Stipulation") embodying the agreement by and among David McCormick, Ann Ritter, Dennis B. McCormick, Laurie McCormick, David Cooke McCormick, Jason McCormick, Helen Leaver, Edmund J. McCormick, Jr., Alfred S. Howes, Herman Markowitz, Bankers Trust, White & Case, LLP, and Catenacci, Markowitz, Delandri, Rosner & Co., which was so ordered by this Court on December 6, 2001, and am familiar with this Court's efforts to facilitate settlement negotiations between and among the parties to this accounting proceeding.

3. On August 2, 2001, in the presence of the parties and their attorneys, this Court stated that he and his staff would like to attempt to facilitate a settlement of this accounting proceeding. David Keyko and I were present on behalf of Bankers Trust. Marc Oxman and Andrew Brodnick were present on behalf of Mrs. McCormick. None of the parties or their attorneys voiced any objections.

4. The attorneys (but not their clients) were called in to chambers, and each was asked to present his client's case. Mr. Brodnick made a presentation on behalf of Mrs. McCormick. After all the attorneys had made their presentations, there was a discussion of the possibility of settlement. The Court asked Messrs. Oxman and Brodnick if Mrs. McCormick would make a demand.

5. In reply, Mr. Oxman stated that his client believed that her claims were worth more than \$100 million dollars. He stated that he did not believe it would be productive to make a demand or engage in settlement discussions before an expert reviewed the claims and

calculated damages. Mr. Oxman said that he was having discussions with Mrs. McCormick about retaining such an expert and expected that one would be hired soon.

6. The Court expressed its belief that the other parties might still productively engage in settlement negotiations. Counsel for Mrs. McCormick did not object. It is my recollection that Mr. Oxman asked the Court if he and his client were required to stay and participate in the discussions that were inapplicable to his client, and that the Court told Messrs. Oxman and Brodnick that their presence was unnecessary. Although Mr. Oxman remembers the circumstances of the day somewhat differently, I do not understand him to dispute that when he and Mr. Brodnick departed, they knew, based on the Court's comments made in my presence, that settlement discussions would continue with the other parties. Most significantly, he has not stated that he asked to stay and participate in the discussions and was refused – because that did not happen.

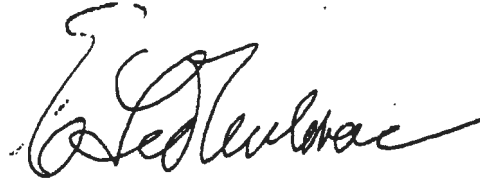
7. The settlement discussions were held. There were no discussions of settlement of Mrs. McCormick's claims against Bankers Trust after Mrs. McCormick and her counsel left. Mrs. McCormick and her counsel did not participate in settlement of her stepchildren's claims against Bankers Trust, and did not ask to see copies of the drafts or of the final terms of the Stipulation.

8. Ultimately, before the Court approved the Stipulation, the Court requested that each party to the Stipulation appear before it. I understand that the Court interviewed each party to the Stipulation individually to make sure the terms were fair and that his or her consent was informed and voluntary. Mrs. McCormick, as a non-party to the Stipulation, did not appear.

WHEREFORE, it is respectfully requested that the Court deny Suzanne McCormick's Application To Disqualify Or Recuse Surrogate Scarpino, To Remove Bankers

Trust As An Executor, And For An Extension of Discovery Deadline To January 31, 2003 as to each requested item of relief and in its entirety and grant such other and further relief in favor of Bankers Trust as this Court deems just and proper.

Dated: New York, New York
November 13, 2002



E. Leo Milonas

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

In the Matter of the Petition of BANKERS
TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of Their
Account as Co-Executors of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased,

and for a direction pursuant to SCPA
§ 2215 for repayment of excess
distributions to an interested party, and for
recovery of Estate assets due from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased.

File No. 3522-1988

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the annexed Affidavit of David G.

Keyko, the accompanying Memorandum of Law, and all the pleadings previously served
herein, Co-Executor Bankers Trust Company ("Bankers Trust") will move this Court in
the Legal Department, 8th Floor, at 140 Grand Street, White Plains, New York, on the
16th day of December, 1998 at 9:30 o'clock in the forenoon of that day, or as soon

Exhibit 76

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

In the Matter of the Petition of BANKERS
TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of Their
Account as Co-Executors of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased,

and for a direction pursuant to SCPA
§ 2215 for repayment of excess
distributions to an interested party, and for
recovery of Estate assets due from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

File No. 3522-1988

AFFIDAVIT

In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

David G. Keyko, being duly sworn, deposes and says:

1. I am a partner in the law firm of Winthrop, Stimson, Putnam &
Roberts, counsel for Bankers Trust Company ("Bankers Trust") in this matter with

Exhibit 77

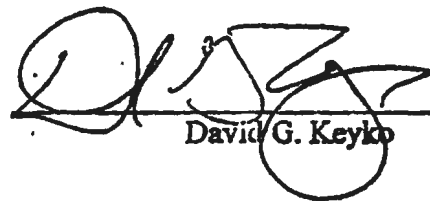
Discovery Order of October 30, 1998 which I had prepared, attached as Exhibit B to this Affidavit.

7. I said that Bankers Trust was prepared to file claims against the Non-Accounting Executors and that in connection therewith, Bankers Trust planned to file a motion to disqualify Hall Dickler. It was my understanding that it was agreed that these claims would not be filed until after Bankers Trust's planned summary judgment motion was decided and thus the disqualification motion would also be filed at that time. When we sought to have Mr. Raymond agree in writing that delaying the filing would not be claimed to be a waiver of Bankers Trust's rights nor a basis for denying the disqualification motion because of prejudice to Hall Dickler's clients, Mr. Raymond would not agree. Therefore, at the next conference with Mr. Scott held on November 4, 1998 specifically to discuss this and other issues, it was agreed that Bankers Trust would endeavor to file its claims against the Non-Accounting Executors and disqualification motion on or before December 1.

8. At the September 24 and November 4 conferences I explained that Bankers Trust planned to file a motion for summary judgment on the Objections. Hall Dickler and the lawyers for Ed Jr. asserted that they required additional discovery and might even amend their Objections. It therefore was agreed that the objecting parties would be permitted to conduct ^{seven DGK} ~~six~~ depositions - three former Bankers Trust officers, a White & Case trust and estates partner and ^{three DGK} ~~two~~ representatives of the real estate management firm which handled the McCormick properties - and only thereafter could Bankers Trust move for summary judgment. See Ex. B. This motion is now to be filed by Bankers Trust on April 7, 1999.

12. Furthermore, although objections have been filed to the accounting, it was agreed at the November 4 conference that they may be amended through March 7, 1999. New counsel consequently will not be bound to accept Hall Dickler's work. It is my understanding that that work has been memorialized in the form of the Objections and the depositions taken to date and thus should be readily available for substitute counsel. Significantly, the major witnesses – the Bankers Trust officer primarily responsible for the estate administration, the White & Case partner who advised the executors, the management company that handled the real estate, Suzanne, her advisors, and Ed Jr. – have yet to be deposed. Finally, as noted above, prejudice to Suzanne and the Non-Executor Beneficiaries has further been minimized because I notified Hall Dickler of the conflict at the first discovery conference, just two weeks after the Objections were filed.

WHEREFORE, it is respectfully requested that the Court grant Co-Executor Bankers Trust Company's Motion to Disqualify Counsel for Co-Executor Suzanne McCormick and the Non-Executor Beneficiaries.


David G. Keyko

Sworn to before me
this 1st day of December, 1998



Notary Public
GINO BARBERA
Notary Public, State of New York
No. 24-5087123
Qualified in Kings County
Commission Expires Oct. 27, 1999

At the Surrogate's Court of the State of New York, held in and for the County of *Westchester* ~~Rockland~~, at the Courthouse located at 18 New Hempstead Road, New City, New York on the *1st* day of *April* 2003.

PRESENT:

HONORABLE ALFRED J. WEINER,

Acting Surrogate.

In the Matter of the Petition of BANKERS TRUST COMPANY and HERMAN MARKOWITZ, as Co-Executors of the Last Will and Testament of Edmund J. McCormick, Deceased, for Authority to Compromise Claims Made By and Against Edmund J. McCormick, Jr.

ORDER TO SHOW CAUSE

File No. 3522-1988

Upon the petition of Bankers Trust Company, now known as Deutsche Bank Trust Company Americas, a New York Banking corporation with an office at 280 Park Avenue, New York, New York, verified on February 5, 2003,

Let the respondents show cause before the Surrogate's Court of Rockland County, held at 18 New Hempstead Road, New City, New York on the *8th* day of *April* 2003, at 9:30 a.m. o'clock in the forenoon, why an order should not be granted:

(a) Authorizing Petitioner to compromise all of the objections, claims and allegations asserted against Edmund J. McCormick, Jr. or asserted or raised by Edmund J. McCormick, Jr. in the pending accounting proceedings for the Estate of Edmund J. McCormick,

Exhibit 78

deceased, on the terms set forth in the Stipulation and Order attached to the Petition as Exhibit A;
and

(b) Granting such other and further relief as this Court deems just and proper.

Sufficient reason appearing therefor, it is hereby

ORDERED, that service by overnight mail or overnight courier service of a copy of this Order to Show Cause, the annexed Petition, and the Memorandum of Law and Affidavit of David G. Keyko in support of said Petition, upon counsel of record to the persons set forth in the service list attached hereto on or before the 2nd day of April, 2003, shall be deemed good and sufficient service.

ENTER:


Acting Surrogate



Tel: 845-638-5330

Fax: 845-638-5632

E-mail: vathens@courts.state.ny.us

Rockland County Surrogate's Court

Virginia Athens
Chief Clerk

1 South Main Street, Suite 270
New City, New York 10956-3548

Exhibit 79



PILLSBURY WINTHROP

ONE BATTERY PARK PLAZA NEW YORK, NEW YORK 10004-1490 212.858.1000 F:212.858.1500

February 14, 2001

E. Leo Milonas
(212) 858-1615

elmilonas@pillsburywinthrop.com

BY HAND

The Honorable Anthony A. Scarpino
Surrogate's Court of the State of New York
Westchester County
140 Grand Street, 8th floor
White Plains, New York 10601

Re: Estate of Edmund J. McCormick, File No. 3522-1988

Dear Surrogate Scarpino:

We represent Bankers Trust Company ("Bankers Trust" or "the Bank"), one of the co-executors of the McCormick Estate. We write to request the Court's permission to file a motion for partial summary judgment, a copy of which is attached in draft form, without exhibits. The motion will significantly streamline this matter, which has been pending since 1988. Briefing can proceed without delaying the rest of the case. At the moment, nothing is happening because the parties are waiting for the Second Department to decide ~~Bankers Trust's appeal~~ from certain aspects of an April 10, 2000 order issued by Surrogate Emanuelli. Moreover, should the Second Department resolve the appeal while the motion is still pending, discovery can resume immediately.

Bankers Trust's motion seeks to dismiss the bulk of Suzanne V. McCormick's objections. Suzanne McCormick, the decedent's widow, is both a co-executor and the largest beneficiary. Bankers Trust's motion is based on the well-established principle that a beneficiary is equitably estopped from objecting to actions in which she participated or acquiesced as co-executor. The motion does not address the merits of Mrs. McCormick's objections and does not involve any disputed facts; rather, it involves purely legal issues.

It is true that Surrogate Emanuelli's April 10, 2000 order states that Bankers Trust is to make a summary judgment motion later in the case. When the Surrogate made his order, however, the possibility that Bankers Trust could make a motion for partial summary judgment against Mrs. McCormick on the discrete legal issue of equitable estoppel was not discussed. Addressing this important issue concerning the major claimant's objections will certainly contribute to the resolution of this matter. Bankers Trust does intend to file a motion addressing the merits of the objections, but in accordance with Surrogate Emanuelli's order, will not file that motion until the objectants' discovery is completed. Bankers Trust also believes that it will be easier for Mrs. McCormick, the

Exhibit 80



PILLSBURY WINTHROP

February 14, 2001
The Honorable Anthony A. Scarpino
Page 2

Bank and the Court to address the discrete issue of estoppel now without at the same time having to review the merits of all the claims.

In sum, there are only advantages, and no disadvantages, to permitting Bankers Trust to file the enclosed motion. We respectfully urge the Court to grant such permission.

Respectfully submitted,

E. Leo Milonas

Enclosures

cc: Attached Counsel List (by Federal Express) (w/ encls.)



PILLSBURY WINTHROP LLP

ONE BATTERY PARK PLAZA NEW YORK, NY 10004-1490 212.858.1000 F:212.858.1500

May 10, 2001

B. Leo Milonas
Partner
212.858.1615

Robert M. DiBella, Esq.
Principal Court Attorney
Westchester County Surrogate's Court
140 Grand Street
White Plains, New York 10604-3307

Re: Estate of Edmund J. McCormick - File No. 3522/1988

Dear Mr. DiBella:

We have received your May 3, 2001 "Dear Marc" letter to Marc Oxman, as well as your letter to Dennis McCormick of the same date. I write this letter to bring to your attention certain information.

Before receiving your letter, we had not received any notification that Mr. Oxman had appeared as new counsel for Mrs. McCormick. We never received a copy of the April 30, 2001 letter that Mr. Oxman apparently sent to the Court, nor were we a party to the discussions, referenced in your May 3, 2001 letter, between Mr. Oxman and the Court. As a result of these communications, the Court has now granted two adjournments to Mr. Oxman. We are pleased that the Court does not intend to grant any further adjournments and that a final date has been set for the filing of opposition papers to our motion for partial summary judgment which we filed on February 27th.

You have stated in your letters to Mr. Oxman and Mr. McCormick that the Court is anticipating a trial in the first two weeks in September. Such a date does not appear to be in accord with the schedule that was previously set by the Court or the proceedings to date. The objectants have been given a number of years to take discovery. During that time, our client, Bankers Trust, has not been permitted to take any deposition discovery. Thus, Bankers Trust has not yet deposed Mrs. McCormick or any of the members of the McCormick family. Nor has Bankers Trust had the opportunity to depose Mrs. McCormick's advisors, who actively participated in executors' meetings. The Bank was instructed by the Court that it could not take discovery until after its summary judgment motion had been filed and decided. The Bank's summary judgment motion, in turn, was scheduled to be filed only after the Objectants completed additional discovery and had an opportunity to amend their objections. Pursuant to the Court's April 10, 2000 Order as amended by the Court's subsequent order dated August 24, 2000, Objectants have 40 days from entry of the appellate court's order disposing of the Bank's appeal to complete their discovery, and 20 days thereafter to amend their objections to the executors'

Exhibit 81



May 10, 2001
Robert M. DiBella, Esq.
Page 2

account. The Bank then has 30 days to file its summary judgment motion. Unlike the partial summary judgment motion currently pending before the Court, which seeks limited relief in the form of dismissal of the majority of Suzanne McCormick's objections on the sole ground of equitable estoppel, the summary judgment motion that will be made after the objections have been finalized will address the *merits* of the objections that have been filed by *all* beneficiaries. In the event that the Court denies the Bank's summary judgment motion in whole or in part, the Bank anticipates taking a number of depositions, including those of all of the objectants and their advisors. The Bank anticipates that it will require time to complete these depositions. This is hardly an unreasonable request given that the objectants were given approximately four years to take their discovery. While we appreciate the Court's position that this matter should be resolved as expeditiously as possible, the Court's prior orders as outlined above anticipate that Bankers Trust's substantive summary judgment motion will not be filed until 90 days after entry of the appellate court's order. As of this writing, the appellate court's order has yet to be issued, but in all likelihood, this Court's schedule will result in the summary judgment motion being filed no earlier than September. Moreover, the Objectants will need time to respond, the Bank to reply, and the Court to decide the motion. If this Court denies the Bank's substantive summary judgment motion in whole or in part, additional time will be needed for the Bank to conduct its discovery. For these reasons, we believe that a September 2001 trial date is not attainable.

Finally, we note that in your letter to Mr. McCormick you state that the pending motion may result in the dismissal of most of the objections filed on behalf of the McCormick children. We wanted to be sure that the Court and the other parties were clear that the pending motion, as stated above, seeks only to dismiss certain of the objections filed by Suzanne McCormick, and does not address any of the objections filed by the McCormick children. Those objections will be addressed in the summary judgment motion referred to above.

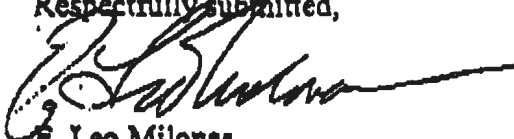


PILLSBURY WINTHROP LLP

May 10, 2001
Robert M. DiBella, Esq.
Page 3

We request that a conference be held to establish a schedule for the remainder of this case and to set a trial date.

Respectfully submitted,



E. Leo Milonas

cc: All Parties on the Attached Service List

WHITE & CASE

UNITED STATES
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NEW YORK
WASHINGTON, D.C.

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BRUSSELS
BUDAPEST
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

AFRICA
JOHANNESBURG

1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: (212) 819-8700

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MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY

February 7, 1997

BY FEDERAL EXPRESS

Mrs. Edmund J. McCormick
123 West Evans Lane
Manalapan, Florida 33462

Re: Estate of Edmund J. McCormick

Dear Suzanne:

I am writing in response to your letter of January 24, 1997.

Although you may have interpreted my letter of December 10, 1996 differently, it does not state that we will only have contact with you through the Court, and does not mean that we will not communicate with you concerning the current administration of the Estate or concerning matters related to the accounting proceeding. As for the telephone call from Lori Perlman of our office, this call was a courtesy to you to arrange a date and time convenient to you for personal service on you of the accounting documents, as required by the Court. The alternative, which would have been easier for us, was to just send a process server to look for you.

To be clear, my December letter means that we do not intend to answer questions concerning the manner in which we administered the estate in informal responses to you that will have to be repeated in Court documents during the course of the accounting proceeding. We prefer to respond to all of the beneficiaries at one time, formally and on the record. We regret if you choose to misinterpret this as "machiavellian." We believe that the formality of this accounting proceeding is necessary given the history of contentiousness among the family.

With respect to the accounting itself, you were not consulted prior to filing the accounting petition because, in view of your picketing of our firm and the New York and Florida offices of Bankers Trust Company, and the statements in your

Exhibit 82

WHITE & CASE

Mrs. Edmund J. McCormick
Page 2

flyers and letters expressing your animosity towards Mr. Wilkie and me, we believed it impracticable to present to the Court a single petition that reflected our respective positions concerning the Estate's administration.

We regret that for your own reasons you did not want to speak with Herman Markowitz concerning questions you may have regarding your income tax returns. His firm may be in a better position to provide you with the details concerning whether the fees were deducted and, if not, whether there was a reason for not doing so. In response to your specific question about Ed's account at Bankers Trust Company, it was opened on February 7, 1986 as a cash investment service account, and was switched to an investment advisory account in June of 1987. The account was closed on November 23, 1988, and the year-end balance below for 1988 is as of that date. The year-end balance and fees for the account are as follows:

1986:	Balance: \$ <u>2,657,773.00</u>	Fees: \$ <u>7,955.88</u>
1987:	Balance: \$ <u>2,827,979.00</u>	Fees: \$ <u>17,515.42</u>
1988:	Balance: \$ <u>1,558,672.00</u>	Fees: \$ <u>15,856.28</u>

Best regards,


Winthrop Rutherford, Jr.

cc: Mr. Alfred S. Howes
Mr. Herman Markowitz
Mr. Edmund J. McCormick, Jr.
Mr. William J. Wilkie

AUG-21-1998 13:50

HALL DICKLER

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
WASHINGTON, D.C.

EUROPE
BRUSSELS
BUDAPEST
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

AFRICA
JOHANNESBURG

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

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FACSIMILE: (1-212) 354-5113

DIRECT DIAL: (212) 818-8740

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TOKYO

MIDDLE EAST
JERUSALEM
ATHENS
LATIN AMERICA
MEXICO CITY
SAO PAULO

August 20, 1998

VIA FACSIMILE AND REGULAR MAIL

Peter Raymond, Esq.
Hall Dickler Kent Friedman & Wood LLP
909 Third Avenue
New York, New York 10022

Re: Estate of Edmund J. McCormick (Index No. 3522/1988)

Dear Peter:

We have learned that at least some members of the McCormick family whom you represent in the above proceeding picketed Bankers Trust Company on August 19, 1998 in Manhattan. They simultaneously circulated a flyer with numerous false charges concerning Bankers Trust and White & Case LLP. A copy of the flyer which we are informed was being so distributed by your clients is enclosed.

The place to resolve these disputes is before the Surrogate, not in the streets of Manhattan.

We are sending copies of this letter to the attorneys for the other parties in the above proceeding so that they will be aware of your clients' conduct and they have an opportunity to protect their own clients and themselves. Rather than further circulate the inappropriate flyers, we are not sending counsel copies thereof. We are also informing the Surrogate's representative, Mr. Scott, of your clients' activities by sending a copy of this letter to him. We are including therewith a copy of the offensive flyer so that the court may be aware of the facts should it be

Exhibit 83

AUG-21-1996 13:50

HALL DICHLER

P.04

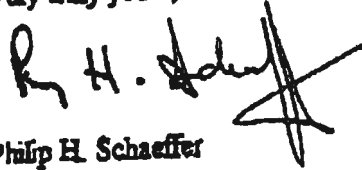
WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

Peter Raymond, Esq.

Page 2

necessary for Bankers Trust or White & Case to seek relief from the Surrogate in the event that they resume their inappropriate conduct.

Very truly yours,



Philip H. Schaeffer

Enclosure

cc: Charles T. Scott, Esq. (w/ attachment)
Westchester County Surrogate's Court

David P. Geis, Esq. (w/o attachment)
Ponzini, Spencer & Geis, LLP

Charles G. Berry, Esq. (w/o attachment)
Shaw, Pitman, Potts & Trowbridge

Howard Holt, Esq. (w/o attachment)
Assistant Attorney General of the State of New York

Charles A. Goldberger, Esq. (w/o attachment)
McCulloch Goldberger & Staudt

Stuart Pollack, Esq. (w/o attachment)
Gerstein & Churchill

84 Crest Road
Wellesley, MA 02482
(781) 235-3948
September 21, 1998

Mr. Peter Raymond
Hall Dickler Kent Friedman & Wood LLP
909 Third Avenue
New York, NY 10022-4731

Dear Peter:

I received a copy of the Schaeffer/ White & Case letter (enclosed) and was not surprised at the tone and content: it was thoughtless and irresponsible.

The opening statement contains the sentence "at least some members of the McCormick family" have picketed Bankers Trust Company, the implication being that the majority of the demonstrators were people outside the family. This has odious overtones since, while we were picketing, I had two lawyerly-looking and speaking individuals approach me and proceeded to engage me in an extended conversation. They started by making the accusatory statement: "You're being paid to do this." I introduced myself and told them that family and friends were the only ones with me. These two people changed the encounter to a fact-finding mission. For the record, the McCormick family has never paid anyone to picket, nor will we. Our supporters show up of their own free will because they believe in justice. Despite his constant appearances and observations of our activities on Park Avenue, Mr. Wilkie's reports to White & Case appear to be somewhat colored by his desire to have us gone.

Mr. Schaeffer's statement that "the place to resolve these disputes is before the Surrogate, not in the streets of Manhattan" is stepping over the line. Mr. Schaeffer must believe that because he is a partner at White & Case that he can pressure you, the firm of Hall Dickler Kent Friedman & Wood LLP, or us through you. Our experience with White & Case lawyers has convinced us that to follow their advice can only be detrimental to our welfare since they are representing their own vested interests as well as Bankers Trust Company. Put in the proper context, this is just one more confirmation of who Mr. Schaeffer/ White & Case's client really has been since the beginning: not the estate of Edmund J. McCormick Sr. as Winthrop Rutherford Jr. has alleged, but Bankers Trust Company, as they admitted in their own filing on behalf of their client Bankers Trust Company, a document which is a public record. The "PETITION FOR PAYMENT OF EXECUTOR'S INDIVIDUAL CLAIMS PURSUANT TO SCFA 1805," as this document very clearly reflects, was prepared and filed by White &

Exhibit 84

Case "AS ATTORNEYS FOR THE PETITIONER, BANKERS TRUST COMPANY." This document was executed by Mr. Michael Philip, Vice President of BTRCo, on February 7, 1989. I recently became aware of a second similar document that was apparently simultaneously recorded with the foregoing. The intended purpose of this second document was the same, and it was prepared and filed by White & Case for the petitioner: In this case, Herman Markowitz. It was executed by Herman Markowitz on February 7, 1989; the affidavit was notarized on the same date by Sarah E. Beeton, an associate of Mr. Rutherford's at White & Case. This was also filed with the Surrogate's Court on March 7. I am enclosing copies of the face page, the signatory page, the notarized affidavit page, along with the cover page of both of the above documents for your reference. It should be noted that Bankers Trust Company and Herman Markowitz are once again joined together with the filing of the estate accounting. I have no doubt that Mr. Schaeffer, as litigator, must be aware of this.

Bankers Trust Company and White & Case attempted to stop our picketing in the past, prior to our having legal representation. Having counsel — even if you/ Hall Dickler et al. do not endorse our actions — does not mean that we are required to forfeit Constitutional rights, including free speech and assembly, of the McCormick family members and friends to warn the public that Bankers Trust Company and White & Case lose money of widows, children, and grandchildren.

We must remember that their responses to our exercising our basic Constitutional rights repeats the pattern they established when we first began our leafleting in 1995 in order to get Bankers Trust Company and White & Case to answer our letters and questions. What we did not know in 1995 was that White & Case was not representing our father's estate but, in point of fact, was representing Bankers Trust Company instead, leaving our father's estate devoid of any legal representation. They had no obligation to answer our letters because there was no client relationship with us! (However, this fact did not deter Mr. Wilkie/ Bankers Trust Company from orchestrating the payment of \$250,000 of estate funds to Win Rutherford of White & Case who had been masquerading as the estate's attorney.) I enclose a copy of my October 2, 1995 letter to Mr. Wilkie where I point out areas where I believed Bankers Trust Company and White & Case were attempting to violate our freedom of speech and right to assemble.

Our leaflet, which Mr. Schaeffer condescends to call a "a flyer," then cavalierly characterizes as "inappropriate" and "offensive," contains a list of facts — court records, recorded public records, along with information from letters and other documents — as well as a series of statements about our beliefs and opinions, not lies, falsehoods, or untruths. "Defensive" would be a more appropriate adjective since we are in a campaign to defend and educate naive clients so they might avoid the trauma of our ten year ordeal with Bankers Trust Company and their law firm of record White & Case. Our father had told Suzanne, his wife, that Bankers Trust Company and White & Case would protect and help us. We were all very vulnerable. Instead of help and protection, we were exploited in an unconscionable manner. We became victims of

the damaging actions of Bankers Trust Company and White & Case. From Mr. Schaeffer's point of view, and that of his client Bankers Trust Company, our leafleting activity was "inappropriate." The McCormick family believes we have had a very inappropriate relationship with both Bankers Trust Company and White & Case, and we intend to see to it that all authorities are made aware of this "inappropriate" and nefarious situation.

Mr. Schaeffer continues in the enclosed letter that they are "Informing the Surrogate's representative, Mr. Scott, of your clients' activities"; again, those ominous overtones. Well, we are also informing the Court of Mr. Schaeffer/ White & Case and Bankers Trust Company's intimidating behavior, not the least of which is White & Case's continuing attempts to trample our Constitutional rights. Of course, I can understand their actions arise from their tenuous and indefensible position caused by their own misguided behavior.

For the record, I would like to cite examples of the way we were treated in front of Bankers Trust Company's 280 Park Avenue offices on August 19 and 20 and also at other locations:

The head of building security warned us in an overtly hostile and threatening manner that we needed a permit to picket and leaflet. When one member of our party contradicted him, he responded: "I'm not going to get into a pissing contest with you," whereupon he called the police to have us arrested. When the police arrived, the sergeant informed the head of security that he had observed us and that we were well within our rights; he was also told that we had the right to have free and unfettered access to the public areas within the property line -- another attempt to silence us foiled. Since Mr. Wilkie had such a keen interest in our picketing, we are certain that he had more than a passing interest in the effort to give us "the bum's rush."

We picketed Bankers Trust Company August 19, 20 and 21. We had planned no further action; however, receipt over the weekend of August 22 and 23 of Mr. Schaeffer/White & Case and Bankers Trust Company's audacious letter (enclosed) persuaded the McCormick family to extend our demonstration through the following week. I have been told that Robert Tiedemann of White & Case had called Hall Dickler et al. to say that he objected to Suzanne McCormick's picketing their building on August 24 and could she stop. During the one deposition that I attended of William Wilkie, I recall that Mr. Tiedemann objected to almost every question asked of his client, Bankers Trust Company.

The two people to whom I referred previously and who did not identify themselves asked us several times: "What do you want?" For the record, we want justice. They then asked if we were going to get other people and sue Bankers Trust Company. We replied that we did have names and were looking for others. From the depositions, we know of other similar estates where White & Case has purportedly acted as estate attorney in which Bankers Trust Company is also the lead executor.

Yes, a "class action suit" has definitely been an option. We referred them to our leaflet (enclosed) where we speak about RICO charges. They asked: "You want racketeering charges?" We replied that also was an option open to us. They then told us that they had sued White & Case and Bankers Trust Company -- not in an estate matter, they added -- and said that the case became expensive and the outcome disappointing and that White & Case would not admit anything. When they left, one of the questioners entered 280 Park Avenue, leading us to conclude they had spoken with us in order to get information for Bankers Trust Company and White & Case.

During Suzanne's picketing of White & Case's office on 6th Avenue, she received similar harassing challenges regarding a permit to picket, etc., from the security force. They did not go so far as to call the police, apparently knowing that such an action would not prevent our picketing. The picketing and leafleting on Wall Street was uneventful in this regard. However, when Suzanne and two friends picketed the Bankers Trust Company's offices at 130 Liberty Street on Friday, August 28, I understand they were challenged several times on the public sidewalk by security for the bank. In comparison to the security folks at the Park Avenue location, the downtown people were gentlemen; once they were aware that we knew our rights, there was no problem.

As in the past, we were photographed numerous times during our picketing. Most of the time they tried to be surreptitious. I want to note for the record that when we picketed in front of White & Case in 1995, a member of that firm, Lori Pearlman (T & E section), took pictures of us and also orchestrated others to engage us in conversation to get us to turn so she could get better pictures. I want to direct your attention to my October 2, 1995 letter (enclosed) addressed to Mr. William Wilkie. On page one, under the heading number three, I refer specifically to this incident. I also want to point out for the record the name Merrill Lynch which we discovered also turned up in connection with an assignment of mortgage involving one of the estate's real properties, Cooper River Manor. Why would employees of White & Case working in league with Lori Pearlman pick the firm name of Merrill Lynch to use? We know that Merrill Lynch is a client of Bankers Trust Company; could it also be a client of White & Case? Is this merely a coincidence or more conspiracy and collusion? In a subsequent telephone conversation, Win Rutherford related to Suzanne that the intent was to use the pictures to obtain an injunction against further demonstrations by us.

When Suzanne was picketing the offices of White & Case during October 1996, a well-dressed man was taking her picture while she distributed leaflets. My brother David was there with his video camera and pointed it at the man who was obviously from White & Case. When the photographer realized he was caught, he pointed his camera into the air as if he were photographing the tops of buildings. The lunch-time audience on the street took all this in and began laughing. This photographer tried to hide his face as he started to run up 6th Avenue. Two things of note: first, we understand that the 1995 photographer, Lori Pearlman, has left White & Case and is now employed at the Manhattan Surrogate's Court; second, during the discovery

process neither White & Case nor their client Bankers Trust has ever turned over any photos whatsoever. That includes the 1995 photos or any others along with any related materials. These are the actions of officers of the court and members of the bar.

This is not the first time that their duplicity has been exposed: during discovery they failed to release the "Assignment of Mortgage," a recorded public document from the FDIC to Bankers Trust Company as a "Trustee for Merrill Lynch" on a parcel of real property that the estate (Edmund McCormick Sr.) owned and of which they were the lead executor, violations of both the discovery process and their fiduciary duties, not to mention ethics. Deceptions masking the true facts and actions by both Bankers Trust Company and their law firm White & Case resulted in fraudulent actions, just a simple case of collusion, fraud, and obstruction. When Mr. Schaeffer tags us with "numerous false charges against Bankers Trust and White & Case LLP," he should be reminded that people who live in glass houses should not throw stones. The truth matters, and we look forward to the day when Mr. Schaeffer, who has been involved in this estate since at least 1992, and his partner Win Rutherford Jr. will be deposed. (Why would a litigator be involved with our father's estate at that early date?) Such cheap shots and twisting of words are a pattern that can be seen if one looks closely in White & Case/ Bankers Trust Company/ Herman Markowitz's Accounting of the estate. Paragraph 12 of that document states that Suzanne McCormick suggested that executors "participated in embezzlement." *She never said that.* The record clearly shows she stated the well-known fact that two executors were involved in an embezzlement case. One of them, Herman Markowitz, was a defendant; the other, Ed Jr, who was a plaintiff, should also have been a defendant, but due to his threats was given a free pass by Bankers Trust and White & Case, thereby further damaging the estate. This Paragraph 12 language was either sloppy work or a vindictive attempt at character assassination, a tactic that they have used before.

All of the McCormick family and their friends have found the picketing very rewarding. The support we have received, along with invaluable information, contacts, and stories have been very helpful to us, especially what we gleaned from ex-employees, who would greet us with: "What have they (Bankers Trust Company) done now?"; "Everyone knows that they screw people -- so what's new?" "This happens all the time." (Next time we will have a tape recorder!)

Suzanne has had other widows come up to her, some in tears, saying they had experienced similar problems -- the bank or the lawyers took all the money. This was with Bankers Trust and other banks -- and they did not know what to do. They just gave up, an action we will not consider. They all gave us credit for the courage we had to do this, and encouraged us to continue to fight.

In retrospect, I believe that personnel from both Bankers Trust Company and White & Case, or their agents, approached us while we were exercising our rights to deliberately engage us in conversation, attempting to gain whatever information they

could or to entrap us. Are they and their agents not specifically prohibited from contacting us or speaking to us under court rules?

I have not spoken nor consulted with anyone from Hall Dickler et al. prior to sending this letter. Its purpose is to memorialize my thoughts for the record. If Mr. Schaeffer/White & Case can write a letter which I believe is duplicitous, I can write one with the truth. I could not have Mr. Schaeffer's letter go unchallenged.

Turning to other matters, there are several items I found missing in our objections to Bankers Trust Company's Accounting. If the McCormicks had not done our own independent investigation and uncovered repeated irregularities (prompting more questions which went unanswered from BTCo, W&C and their phalanx of legal talent unknown to us at the time), we would never have unearthed the fraudulent assignment of mortgage from the FDIC to Bankers Trust Company as trustee for Merrill Lynch with its clearly deceptive recording, nor would we have learned of the double payment of Estate obligations by BTCo after already paying Ed Jr. to satisfy those obligations, nor any of the other breaches of fiduciary duties. You have covered those items well in our objections; we need to consider how the following may be added at a later date:

1. We did not mention the \$56,000 rental money Ed Jr. withheld from the estate. Was this covered by BTCo?
2. Was the McCormick Organization's bonding money \$30,000 or \$50,000, and do we have anything to support one figure over another? Was it brought out that Ed Jr. never turned this money over to his attorney as he was directed?
3. With all the monies that BTCo let Ed Jr. get away with, why did the estate pay his attorney in the embezzlement case?
4. BTCo and W&C did not inform co-executrix Suzanne about Ed Jr.'s defaulted "promissory note" for six months. Why? And the amount was \$215,000, not \$195,000.
5. There must be a place to emphasize the toll these ten years have taken on the family, and especially on Suzanne. While she was grieving the death of our father, the very people Ed Sr. had appointed to protect her were leading her down the garden path. When she began to question BTCo's "management" of our father's estate, she was ignored, causing her to doubt herself. The mental anguish of losing a husband has been compounded by her being forced to abandon her music career in order to uncover all the mismanagement and frauds by BTCo and W&C. The time and mental well-being this has stolen from her life and ours cannot be replaced. BTCo and W&C destroyed many lives.

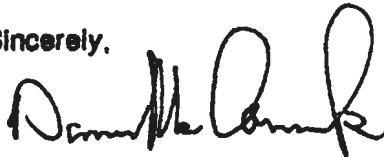
Ed and Suzanne found that their 19th century art collection, which had great value as a total entity, opened many doors in Suzanne's music career. At Ed Sr.'s death, Suzanne had only her personal savings to pay her bills. BTCo indicated that she should sell this artwork to acquire

money to live on, thus the collection was broken up and sold at fire sale prices.

6. A minor point: In our objections on the assignment of mortgage, I believe it should be the FDIC to BTCo as trustee for Merrill Lynch, not ASB to BTCo.
7. In Ed Jr.'s objections (filed September 10 or 14, depending on which page you read), he speaks about the consulting company, which he moved into right away. Why didn't lead executor BTCo close down this money-drain immediately, rather than encourage Ed Jr. to waste more of the estate money? Those negotiations to take over the company were engineered by Ed Jr. and Win Rutherford without Suzanne's participation. In addition, Ed Jr. continues to owe Suzanne at least \$61,000 on this "deal" Win Rutherford arranged.

One last thought. When Mr. Wilkie adamantly asserted that the estate should be held financially responsible for paying their law firm of Winthrop Stimson et al. for defending their "management" of the McCormick Estate, I got to wondering if BTCo passed Winthrop Stimson's legal work, beginning in 1995, on to the estate through W&C's billing records. Just something to think about.

Sincerely,



Dennis McCormick

cc: Suzanne McCormick, David McCormick, Ann McCormick Ritter, Laurie McCormick, Hon. Jonathan Lippman – Chief Administrative Judge, Dennis C. Vacco – NYS Attorney General, Charles T. Scott – Westchester Surrogate's Court, David P. Geis, Charles G. Berry, Howard Holt, Charles A. Goldberger, Stuart Pollack, Philip H. Schaeffer, Robert E. Tiedemann, Association of the Bar of the City of New York – President Michael Cooper, New York State Bar Association, Center for Constitutional Rights, NY Civil Liberties Union, – Legal Intake, Frank Newman – CEO Bankers Trust Company, David Komansky – Chairman Merrill Lynch

October 2, 1995

Mr. William J. Wilkie
Managing Director
Bankers Trust Company
280 Park Avenue
New York, NY 10017

Dear Mr. Wilkie:

Please be advised that our appearance outside the buildings of Bankers Trust and White & Case to protest the shabby treatment our family has received from your handling of our father's estate is a right guaranteed by the Constitution of the United States. Your use of intimidation strategem to dissuade us from exercising our rights is both reprehensible and illegal, a fact that we are sure you and your counsel (White & Case) are well aware of. I refer to five specific incidents; however, these actions are not limited to the ones delineated below:

1. Your letter dated September 5 arrived after our first appearance (8/28 & 8/29/95) in front of your building. It contained several not so subtle threats. You made a point of mentioning the things that our father's wife, Suzanne McCormick, received. These are things I know he wanted her to have. Is your mentioning this a clumsy, divisive tactic, or was this meant to intimidate our stepmother, Suzanne, since she received a copy of your letter? The Cooper River deferred maintenance item: why is this a problem after five years of your administration and supervision? Is this your subtle way of telling us that Cooper River is worth nothing? And you have the audacity to imply that a continuation of our protest will cost us money (page 2, last paragraph).

2. A letter signed by my brother Ed Jr., dated September 25, cautioned us to stop one facet of our campaign of protest against White & Case and Bankers Trust. The tone and message of this letter directly contradicted his two recent letters that encouraged us, indeed, that provided us with a raft of helpful documents. The only logical conclusion we can reach is that someone used leverage to get him to send that letter.

3. White & Case's use of a photographer (on September 29), her demeanor overtly hostile, to take pictures of us, was, we believe, meant to intimidate us. It didn't! (We have a photograph of her doing this.) People who voluntarily identified themselves as Merrill Lynch employees emerged from the W & C building, engaged us in conversation, and attempted to have us turn in such a manner as to facilitate the taking of our picture by this woman photographer. Another -- unidentified -- individual who appeared to be in league with the above photographer made a statement that we interpreted as a cunning

Exhibit 85

attempt at entrapment. We checked and learned that Merrill Lynch does not have offices at the White & case building but at 1185 Avenue of the Americas. Could these people have possibly engaged in fraudulent actions by misrepresenting themselves? Are these the standard "dirty tricks"? More lies, Mr. Wilkie?

4. On August 29 at Bankers Trust, several people on the public sidewalk pointed out that your photographer was covertly taking pictures of us from behind some bushes. Because we are well within our civil rights, we have nothing to hide. If you want pictures of us, you do not have to go to such devious lengths - this seems to be a pattern.

5. A Bankers Trust employee, a private person, selected the one woman in our group, approached our sister Ann with an openly hostile, threatening demeanor, usurping police authority and the policeman's role, to tell us that we had to keep walking, that we could not stand on a *public sidewalk* and converse with people who wanted to hear our story. This was a clearly blatant attempt to limit us from exercising our rights.

Mr. Wilkie, in our opinion you (Bankers Trust and White & Case) have violated our rights. These bully tactics will not dissuade us. We are documenting your attempts to deprive us of and violate our civil rights. What appears to be collusion among you could be interpreted as a conspiracy to deprive us of those rights. We want you to know that we are determined to honor the memory of our father - last Friday was his birthday anniversary - by every legal avenue we can. That includes, but is not limited to, freedom of assembly, freedom of speech, and freedom of the press.

The ancillary results of our work have been exceedingly rewarding. The information, sources, and offers of assistance have gone beyond our wildest expectations. Countless people have told us about the "reputation" of Bankers Trust and White & Case. We have met with former employees of both firms, including a former White & Case partner engaged in a suit with that law firm; we now look forward to contacts with the Bankers Trust "alumni" group that meets at the Yale Club. We have been made aware of Bankers Trust's tactics with Gibson Greeting Cards and their lawsuit as well as Bankers Trust's latest defensive forays regarding the Procter and Gamble litigation.

This will give you notice that we will continue to exercise our civil rights in regard to publicizing the history of the McCormick Estate. Our campaign will be multifaceted, including plans to prevent what happened to our father's reputation and estate from happening to others through legislation both on the local and federal level. The legislation will address the under-regulated and uninsured fiduciary assets held by Trust Departments.

Our previous (mostly unacknowledged) letters contained questions that were

too numerous or complex for Bankers Trust and White & Case to answer, so I will close this letter with a simple one: who is calling the shots at the Trust Department at Bankers Trust: is it you, Mr. Wilkie, or is it the low profile, heavy handed, politically active law firm of White & Case?

Mr. Wilkie, we are still waiting for written answers.

Yours,



Dennis McCormick
84 Crest Road
Wellesley, MA 02181

via fax and U.S. Mail

cc executors:

H. Markowitz
E. McCormick Jr.
S. McCormick
W. Rutherford

Kelley Holland
A. Howes
J. Hurloch
D. McCormick
F. Newman
L. McCormick
John S. Reed
A. McCormick Ritter
C. Sanford
E. Shanks
Frederick Siegmund, Esq.
N. Siegel-ACLU
Daniel P. Tully

McCormick, Dave

From: Dennis004@aol.com
Sent: Monday, December 27, 1999 12:03 PM
To: mccormickda@panasonic.com; Laurie2005@aol.com
Subject: settlement???

Dear Laurie and David,
Happy New Year! Below is a copy of an email I sent to our lawyers in response to a letter from the BT lawyer setting up conditions for settlement talks. Will this ever end? Laurie: I loved that grandma picture. I don't think I've ever seen it before. Love D

Dear Peter and Diana,

David Keyko's letter of December 23 elicited an identical response from all of us (siblings, Suzanne, Patrick): this man is desperately trying to control the tone and conditions for negotiating a settlement. Although we understand the ethical reasons for going through Keyko, it is unfortunate we are not dealing with Anne Schwab, the person who made the initial contact. My experience at the bargaining table has taught me that an opponent who is weak or desperate can cause more problems than someone negotiating from a position of confidence and strength.

(His inability to collaborate with us on the terms for sitting down to talk reminds me of the argument on the shape of the table for the Paris peace talks on Vietnam.)

Keyko uses that \$8 million figure that was put into the preliminary objections as his starting point. I'm sure you remember that we never supported that figure, that we were told it would be amended as we updated those objections, and his use of that figure needs to be addressed in our next response.

Furthermore, Keyko's demand that each objectant present a separate number for damages and how we calculated that goes right back to BTCo's strategy to deny us effective counsel, Rutherford's advice to us at our father's funeral that we did not need legal representation, and BTCo's legal maneuver to have us use separate lawyers. We have been through that and the court sided with us. Let's remind him. If he needs refreshing on how his client is responsible for our losses, tell him to see our objections to the accounting; let's remind him also that his client has worked to obstruct this case through their continuing failure to produce relevant documents required by discovery and their inappropriate use of a privilege list.

And, finally, Keyko's language in the confidentiality agreement lacks clarity. As an English teacher, I have taught writing for thirty years. There is no way I would sign something so poorly written and confusing. Could we/you draft this confidentiality agreement so it is clear and fair? The language in your letter to him (12/20) is only a step or two away from an acceptable confidentiality agreement.

Peter and Diana, while we all share some background for engaging in this whole process, you two are the experts and we look to you for suggestions on an appropriate and effective response to Keyko's letter. What comes next?

Although we should continue to communicate through Suzanne and Patrick, I wouldn't mind receiving an acknowledgment that you have received this by return e-mail.

We wish you a happy, healthful new year. Dennis McCormick

Exhibit 86

McCormick Estate

Raymond, Peter D.

From: dkeyto@pillsburywinthrop.com
Sent: Thursday, November 15, 2001 7:41 PM
To: Dennis McCormick; praymond@haldickler.com
Cc: simlomas@pillsburywinthrop.com
Subject: Non-collection Clause

This was heavily negotiated (you know the saying that a camel is a horse designed by committee), so I am sure that you will be able to come up with clearer wording:

"X agrees not to collect from any and all third-parties (a "Judgment Debtor") to the extent and in the amounts that the Judgment Debtors in turn obtain contribution judgments requiring Y to contribute to the payment of X's judgments against the Judgment Debtors."

In your case, X would be Haldickler, Y would be the McCormick "children" and the Judgment Debtor is Suzanne McCormick.

Just substituting words, the provision would read: "Haldickler agrees not to collect from Suzanne McCormick to the extent and in the amount that Suzanne McCormick in turn obtains contribution judgments requiring the McCormick "children" to contribute to the payment of Haldickler's judgment against Suzanne McCormick."

David

Exhibit 87

HD - 02455

PRIVILEGED AND CONFIDENTIAL

EXECUTIVE SUMMARY

DEUTSCHE BANK AG, FRANKFURT/MAIN

**INVITATION TO SETTLE THE DISPUTE BETWEEN
BANKERS TRUST COMPANY, NEW YORK, AND
MRS. SUZANNE MCCORMICK**

JUNE 25, 2002

HAND DELIVERED IN FRANKFURT

DRAFT/DISCUSSION

Exhibit 88

Executive Summary

- **Invitation To Settle The 13 ½ Year Dispute Between Deutsche Bank As Successor To Bankers Trust Company, and Suzanne McCormick (Page 1)**
- **Better Understanding And Several Incentives To Act May Help Deutsche Bank Reach A Solution (Page 2)**
- **As An Experienced Professional, Decedent Edmund J. McCormick Expected That Bankers Trust Company Would Keep His Sizeable Estate 'Safe' (Page 3)**
- **Decedent's Will Gave Bankers Trust Company, As Lead Fiduciary And Executor, All Powers It Needed To Manage The Estate's Assets, Invest Or Improve 'In Good Faith' (Page 4)**
- **On 11/27/88, Bankers Trust Company Took Control Of Assets Valued Four Months Earlier At \$37.133 Million. EMcC's Net Worth Then Was \$24.196 Million². The Seeds To The Enduring Dispute Lay Principally In Real Estate Assets (Page 6)**
- **Competent Accounting For, And Analysis Of, Presumed Real Estate Partnerships Was Absent, Contributing Materially To The Protracted Dispute Between BTCO And SMcC (Page 8)**

- **While SMcC Believed That BTCo Had Taken Effective Control of EMcC's Estate, It Took Her Years To Understand That The Bank Was Not Capable Of Managing The Real Estate Properties (Page 8)**
- **Setting Further The Stage For The Protracted Dispute, BTCo Induced SMcC To Delegate To It Her Powers As Executrix And, To Her Detriment, She Complied (Page 11)**
- **After EMcC's Death, There Was A Definite Conflict Of Interest Between White & Case, Until Then Purportedly SMcC's Attorneys, And SMcC, Compounding The Developing Problems (Page 12)**
- **The Root Cause Of This Dispute Is That BTCo, As Lead Executor, Never Took Effective And Complete Control Of EMcC's Sizeable Estate. Thus The Bank Failed In Performing Its Fiduciary Duties In Various Ways. Combining Incompetence With Bureaucratic Timidity And Dishonesty, It Dissipated Significant Assets In The Process. BTCo's Ensuing Liabilities Will In Part Command Triple Damages (Page 14)**

- **Over Four Years Following EMcC's Death, BTCo Had Surrendered, Sold, Or Otherwise Dissipated Most Of The Estate's Real Estate Assets. Essentially, BTCo Had Failed To Take Effective Control Over Their Management. Violations Of Its Fiduciary Duty Include Waste Of Estate Assets, Gross Mismanagement, Breach Of Loyalty, And Failure To Disclose Material Information Before Acting. (Page 20)**
- **Buying The Cooper River Mortgage As A Trustee For Merrill Lynch Mortgage Investors,' BTCo Acted Irresponsibly, In Bad Faith And Caused A Loss To The Estate As High As \$8.495 Million (Page 34)**
- **BTCo, As Lead Executor, Decided To Sell One Asset Class Comprised Of Liquid Securities (Stocks And Bonds) To Subsidize Another, In The Short Term Illiquid Asset Class (Real Estate). Such Action Is A No-No In Competent Asset Management And Therefore Improper, Particularly As It Occurred During The Greatest Bull Market In US History. (Page 36)**
- **For BTCo To Unilaterally Reject An Offer To Buy A 50% Share The Estate Did Not Own In Two Florida Nursing Homes Was An Expensive And Major Violation Of Its Fiduciary Duty (Page 38)**

- **Claiming Not To Be Able To Disburse Cash For SMcC's Living Expenses, BTCo Directed Her To Sell An Entire Art Collection Causing Another Substantial Loss And Violation Of Fiduciary Duty (Page 40)**
- **BTCo Failed SMcC In Its Duty To Maximize Cash Income Over Time And There Is No Plan To Satisfy Her Right To Withdraw Cash From The Estate Annually. After 13 ½ Years, These Rights Are Worth Close To \$3 Million. (Page 42)**
- **In Addition To Not Taking Effective Control Of The Estate's Assets BTCo Also Paid Inadequate Attention To Accounting Issues And Failed To Comply With Prudent Investor Rules. Its Final Accounting Was Not Acceptable. That Is A Red Flag The Size of Alaska. (Page 44)**
- **SMcC's Counsel Filed 15 Detailed 'Preliminary' Objections To BTCo's 'Final Accounting' With The Surrogate Court Of Westchester. BTCo Must Be Held Accountable For Gross Mismanagement Of The Estate And For Deceiving EMcC's Family. (Page 46)**
- **BTCo's Mismanagement And The Continuing 13 ½ Years Long Dispute, Described Here In Its Various Forms And Consequences, Has Seriously Affected SMcC's Personal And Professional Life. (Page 53)**

- **Despite The Grief BTCo Caused SMcC Has Tried Twice To Engage DB In Settlement Discussions. This Is A Third Attempt At Getting Resolution Through Dialog And Negotiation. If At All Possible, She Would Like To Avoid A Costly And Continued Protracted Legal Battle. (Page 54)**
- **DB Can Benefit Materially From A Settlement. SMcC Feels That Continuing The Dispute Should Not Be Part Of DB's Best Strategy In The Very Competitive US Assets Management Market. She Asks That Management Think Seriously About Its Incentives To End The Conflict. (Page 56)**
- **Assuming DB Accepts Its Responsibility As Successor To BTCo, SMcC Has Set Some Basic Requirements. These Relate To DB Accepting A Beginning Balance Sheet, EMcC's Asset Allocation And Investment Style, And The Assumption That Fidelity Investments Managed All Assets From 11/27/88 Through Today. (Page 62)**
- **Aside From Considering The Benefits DB Can Attain Through A Settlement With SMcC, Both Have To Address The Question Of 'What Are The Various Asset Classes In EMcC's Estate Worth Today?' – And Assume SMcC Is Entitled To The Benefit Of Compounding Over The Last 13 ½ Years. (Page 64)**



FOR SETTLEMENT PURPOSES ONLY

PILLSBURY WINTHROP LLP

1540 BROADWAY, NEW YORK, NY 10036-4039 212.858.1000 F:212.858.1500

May 5, 2004

David G. Keyko, Esq.
212.858.1604

Law Offices Of Jason E. Bogli, LLC
198 R Salmon Brook Street
Granby, CT 06035

dkeyko@pillsburywinthrop.com

Re: Estate of Edmund J. McCormick

Dear Jason:

I am writing on behalf of Deutsche Bank Trust Company Americas (the "Bank") to respond to Mrs. McCormick's April 13, 2004 letter requesting that the Bank engage in a further settlement dialogue. As I have stated in the past, as counsel for the Bank, I can not discuss the case with Mrs. McCormick outside of your presence without your permission. I note that my comment from the March 25 court conference cited by Mrs. McCormick was directed to the clerk of the court and concerned the case files. I therefore am sending this response to you as counsel for Mrs. McCormick and trust that you will forward it to Mrs. McCormick.

The Bank understands from Mrs. McCormick's April 13, 2004 letter that she is not interested in accepting the terms of its settlement offer as set forth in my March 24, 2004 letter to you.

The Bank appreciates and shares Mrs. McCormick's desire to negotiate a mutually acceptable resolution of this matter and would be pleased to consider any reasonable settlement demand by Mrs. McCormick. ~~However, the parties' disparate views of the validity and value of Mrs. McCormick's claims appear to make such a resolution impossible at this time.~~ Her list of claims that she says from her perspective are still open makes this obvious. Given this, devoting additional time and resources to settlement efforts would not, in our estimation, be fruitful.

We look forward to resolving this matter judicially in the most expeditious manner possible.

Sincerely,

David G. Keyko

Exhibit 89

Surrogate Pagonis
January 18, 2006
Page 2

McCormick's relatives who are parties to the settlement and were told that none of them spoke with the *Absolute* reporter. (We also attempted to reach the reporter, but she did not return our call.)

Although Bankers Trust's motion to provide Mrs. McCormick with a copy of the Stipulation subject to a confidentiality order (the "Confidentiality Motion") is still pending, we believe that Mrs. McCormick is familiar with the terms of the Stipulation. As noted in my Affidavit in support of the Confidentiality Motion, Mrs. McCormick's assistant Patrick Hanley saw a copy of the Stipulation prior to the time it was signed and approved.¹

Respectfully,



David G. Keyko

Enclosure

cc: Jason E. Bogli, Esq. ✓
Robert Tiedemann, Esq.
Charles G. Berry, Esq.
Adria De Landri, Esq.
David P. Geis, Esq.
Brian J. Carey, Esq.

¹ The Confidentiality Motion, dated October 22, 2002, seeks an Order directing that: (i) Mrs. McCormick and any person advising, assisting, or representing her may be provided with a copy of the Stipulation; and (ii) the terms of the Stipulation shall be kept confidential by Mrs. McCormick and by her advisors, assistants, and representatives and shall not be disseminated to any other non-parties to the Stipulation.

44th Street NOTES

The Association of the Bar of the City of New York



Pursuing High Ethical Standards

by E. Leo Milonas

One of the Association's founding missions was to elevate the standard of integrity in the legal profession. We are proud that the name of the Association has been synonymous with high ethical standards. As legal practice becomes more complex, the ethical challenges multiply, and our responsibility to provide guidance to the Bar becomes all the more important.

For the past 80 years, our Committee on Professional and Judicial Ethics, currently chaired by Barbara Gillers, has been responding to ethics-related questions. The Committee issues formal opinions as guidance to the profession (more on these later), and provides informal opinions to individual inquirers.

The members of the Committee staff an ethics hot-line, which is available to answer calls from any New York lawyer with regard to his or her own prospective conduct. The hot-line can be reached by calling 212-382-6624. Callers will then be given the committee member handling the hot line that week. The hot-line receives approximately 30 calls per week, and serves a vital function in the New York legal community.

We must monitor ethical developments nationwide and worldwide.

Our Committee on Professional Responsibility, chaired by Richard Maltz, addresses issues of attorney-client privilege and other professional responsibility topics, both related to the code and arising under law or other court rule. Our Professional Discipline Committee, chaired by Hal Lieberman, examines the disciplinary process and the interface between lawyer discipline and ethical requirements. These three committees often collaborate to consider major ethical policy issues, and in that vein will be working with the State Bar in the harmonizing of the New York Lawyer's Code of Professional Responsibility with the American Bar Association's Model Rules.

These committees do not limit themselves to issues facing New York, and have weighed in on such national issues as multidisciplinary practice and multijurisdictional practice. As law practice has become more national and international, lawyers are more likely to need to conduct business in states other than those in which they are admitted to practice. Therefore, our horizon must be broad, and we must monitor ethical developments nationwide and worldwide.

In addition to those committees that focus on issues relating to professional conduct, many of our substantive committees address ethical issues as they pertain to their areas of practice. Dozens of our continuing legal education programs each year

Continued on next page

**Moving Forward
50 Years After
Brown: Legal
Strategies for
Civil Rights**

**Right to Appointed
Counsel in the
Immigration
Context**

**Are Confessions
Reliable?**

44th Street NOTES

Jayne Bigelsen Mark Schwartz
Editor Art Direction/Layout

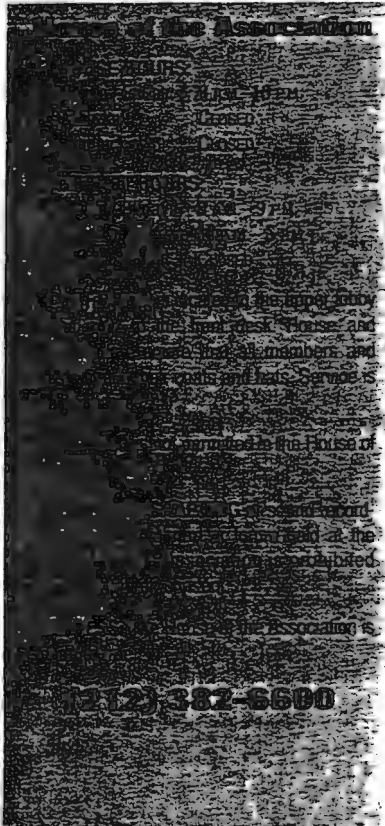
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Executive Director

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President's Column

Continued from front page

are either devoted to ethics in specific fields or contain an ethics component. Beyond their attention to CLE, a number of committees collaborated over the past year to address the ethical implications of rules implementing the Sarbanes-Oxley Act regarding standards of professional conduct for lawyers who represent issuers of securities.

The Association also plays a role in the handling of complaints against lawyers regarding ethical misconduct. Our Complaint Mediation Panel consists of volunteer mediators who seek to resolve disputes between lawyer and client, referred by the Departmental Disciplinary Committee, regarding alleged lawyer misconduct. The matters that are referred are generally perceived by the Disciplinary Committee as those which are more appropriately handled by resolving the problems between lawyer and client than pursuing ethical discipline.

The recent formal opinions of our Professional and Judicial Ethics Committee present an excellent cross-section of vexing ethical issues in modern law practice. In summary form, these opinions advised as follows:

— A lawyer or law firm may use a domain name that does not include or embody the firm's name or that of any individual lawyer, under certain conditions: the web site bearing the domain name must clearly and conspicuously identify the actual law firm name; the domain name must not be false, deceptive or misleading; the name must not imply any special expertise or competence, or suggest a particular result; and, it must not be used in advertising as a substitute identifier of the firm.

— A lawyer may not, as a matter of routine practice, tape record conversations without disclosing that the conversation is being taped. A lawyer may, however, engage in the undisclosed taping of a conversation if the lawyer has a reasonable basis for believing that the disclosure of the taping would impair pursuit of a generally accepted societal good.

— When a lawyer receives a fax, email or other communication containing confidences or secrets that the lawyer knows or reasonably should know were transmitted by mistake, the lawyer (1) has obligations to promptly notify the sending attorney, to refrain from review of the communication, and to return or destroy the communication if so requested, but, (2) in limited circumstances, may submit the communication for in camera review by a tribunal, and (3) is not ethically barred from using information gleaned prior to knowing or having reason to know that the communication contains confidences or secrets not intended for the receiving lawyer. However, it is essential as an ethical matter that the receiving attorney promptly notify the sending attorney of the disclosure in order to give the sending attorney a reasonable opportunity to promptly take whatever steps he or she feels are necessary.

In addition, the committee recently issued extensive guidelines with regard to recordkeeping policies and systems that should be utilized to check for conflicts.

These and all formal ethics opinions from 1986 to the present are posted on the Association's website, www.abcnyc.org, on the Reports/Publications page. We encourage you to take advantage of the resources the Association provides to address ethical issues that arise in your practice.

SURROGATE COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
In the MATTER of the Petition of
BANKERS TRUST COMPANY, and HERMAN
MARKOWITZ, for settlement of their Account
as co-executors of the Last Will and Testament of

Index No. 3522/1988

EDMUND J. MCCORMICK,

Deceased,

**AFFIDAVIT OF
JONATHAN MANNY
PLACE**

and for a direction pursuant to SCPA §2215 for repayment
of excess distributions to an interested party, and for
recovery of Estate assets from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

-----X
In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will and Testament of

EDMUND F. McCORMICK,

Deceased.

-----X
COUNTY OF)
) ss.:
STATE OF)

JONATHAN MANNY PLACE, being duly sworn and says:

1. I make this affidavit in support of Suzanne McCormick's application to disqualify the felon Bankers Trust Company.

2. In 1999, I received notice from Bankers Trust Company regarding Bankers Trust's application to transfer trusts to another company under another name, since Bankers Trust Company had admitted felony violations of federal banking laws.

Exhibit 92

3. In mid December 1999, I appeared at the New York Supreme Court in New York County regarding Bankers Trust's application to transfers trusts from Bankers Trust Company to another entity.

4. I met Phil [redacted] in front of the court room door at which time he introduced himself to me, asked me what my name was and then told me that he knew who I was.

5. [redacted] immediately, I understood that he was trying to dissuade me from staying around any longer since very soon the court would start.

6. I made it clear to him that I had come all the way from Cape Cod, Massachusetts to make objections in court to Bankers Trust Company's application, that I was waiting for the court session to begin and that I wasn't going to leave before then.

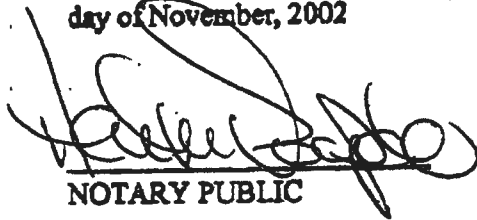
7. [redacted] would try to transfer with a new fiduciary. [redacted] a lawyer. The next day I called and reported the incident to David Hille of White & Case, attorneys for Bankers Trust Company.

8. During the appearance I had an opportunity to voice my objections and ask the judge questions. However, [redacted] activities of Bank Trust Company. [redacted] prevented the parties from voicing their objections. In the end, the judge allowed one objector, Bruce Whelan, a Massachusetts criminal attorney, to obtain a new fiduciary to serve as

new trust and estate.


JONATHAN MANNY PLACE

Sworn to before me this the 21
day of November, 2002


NOTARY PUBLIC

HEATHER PUOPOLO
Notary Public, Massachusetts
My Commission Expires November 10, 2006

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

Privileged and Confidential

Via Certified Mail
#7009 2250 0002 9132 4011

January 2, 2013

Winthrop Rutherford, Jr.
White & Case
Attorneys at Law
1155 Avenue of the Americas
New York, NY 10036-2787

RE: *Estate of My Husband Edmund J. McCormick*

Dear Win,

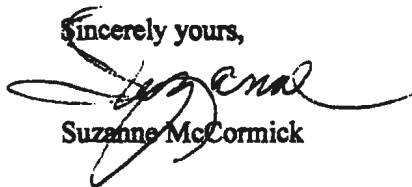
I am again writing to you, and your law firm White & Case, as a legal Executrix of my husband Edmund J. McCormick's Estate.

I take note of the failure for you to respond to my letter dated December 10, 2012, that was received December 12, 2012 (Enclosure A). Is it a secret what the status of White & Case is with regard to my husband's Estate? I'm sure you can understand that this matter is quite distressing to me!

The purpose of this letter is to request a complete, detailed and accurate copy of the alleged invoices of the law firm of White & Case (and you) with regard to the purported representation of the Estate of my husband Edmund J. McCormick. If, in fact, you or your law firm (White & Case) asserts that these documents may have previously been produced, please identify all the relevant 'Bates Numbers' (and ranges of Bates Numbers) of said alleged invoice documents in this matter.

The continuing failure to respond adds to both your and White & Case's significant poor ethics in my husband's Estate which includes, but not limited to, failing to follow my husband's expressed wishes as clearly stated in his Will concerning me, his wife, by continually denying me the full benefits of my inheritance during the final years of my life resulting in severe damages. I look forward to a meaningful written response within five (5) business days of receipt.

Sincerely yours,



Suzanne McCormick

SM/ms

Enclosure A - Letter dated December 10, 2012 addressed to Winthrop Rutherford, Jr./White & Case, Attorneys at Law (1 pp.) with listed Enclosure (Exemplified Copy of the Permanent Letters Testamentary for the Estate of Edmund J. McCormick, dated January 25, 1989 issued by the Westchester County Surrogate's Court - File No 3522-1988 - 2 pp.) - Total of 3 pp.

W&C12/13WR/1

Exhibit 93

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

FILE COPY

Privileged and Confidential

Via Certified Mail
#7009 2250 0002 9132 4028

December 10, 2012

Winthrop Rutherford, Jr.
White & Case
Attorneys at Law
1155 Avenue of the Americas
New York, NY 10036-2787

Dear Win,

I trust this finds you well. The 24th anniversary of my husband Edmund (Ed) recently passed on November 27, 2012.

As you know, Ed's Estate was predicated on the 'Last Will and Testament' that was drafted by you in 1985. And shortly following Ed's death in 1988, the record shows that you and your law firm, White & Case became the Estate Attorney of Ed's Estate at it's inception.

Since, neither you nor White & Case has contacted me in more than seven (7) years and Ed's Estate remains open, I am writing at this time as a Legal Executrix pursuant to the Permanent Letters Testamentary, dated January 25, 1989, issued by the Westchester County Surrogate's Court (Serial No. 214216), that you are personally familiar with. Attached, please find an Exemplified Copy of the subject Permanent Letters Testamentary (2 pp.) for your edification.

Therefore, the salient question that I have is - *What is the position of White & Case and you with regard to Ed's Estate?* If for some reason, I don't receive a written response, it will be my understanding that you and your law firm (White & Case) have no interest in my husband Edmund's Estate. Under the circumstances, I hereby request a definitive written response within five (5) business days of receipt. Wishing you a Happy Christmas and Peaceful New Year.

Sincerely yours,


Suzanne McCormick

SM/ms

Enclosure as listed

ENCLOSURE(A)-1

COPY

LETTERS TESTAMENTARY

The People of the State of New York

Know All Men by These Presents that at the City of White Plains, County of Westchester, on the25TH.... day of..... JANUARY,..... 19.89, before HON. EVANS V. BREWSTER, Surrogate of our said County, the Last Will and Testament of

..... EDMUND J. MC CORNICK

late of the VILLAGE of DOBBS FERRY..... in said County,

deceased, was proved and

..... ALFRED S. JONES, HERMAN MARKOWITZ.....

..... SHANNE V. MC CORNICK, EDMUND J. MC CORNICK, JR.

..... &..... BANKERS TRUST COMPANY OF NEW YORK.....

the amount ORS..... named therein, having duly qualified according to law, ARE hereby authorized to administer the estate of said decedent pursuant to the provisions of the will, subject to the jurisdiction and supervision of this Court.

IN TESTIMONY WHEREOF, we have caused the seal .. of office of the Surrogate's Court of the County of Westchester to be hereunto affixed.

Witness: Honorable Evans V. Brewster, Surrogate of our said County, at the City of White Plains, the 25TH day of JANUARY,..... in the year of our Lord one thousand nine hundred and EIGHTY-NINE

[Signature] Chief Clerk

Notary

Attention is called to the provisions of KPTL 11-14 and MPA 714 which make it a matter...



No 13052

All which we have caused by these presents to be exemplified, and the Seal of our said Superior Court to be hereunto affixed.

Witness, HONORABLE EVANS V BREWSTER, Surrogate of the County of Westchester, the

10TH day of APRIL 18 89

Chief Clerk of the Surrogate's Court



EVANS V BREWSTER, Surrogate of said County, do hereby certify that PHILIP B. PUGSLEY

whose name is

subscribed to the preceding exemplification, is the Chief Clerk of the said Surrogate's Court of the County of Westchester, and that full faith and credit are due to his official acts. I further certify that the said affixed to the exemplification is the seal of our said Surrogate's Court, and that the attestation thereby is in due form and according to the form of attestation used in this State.



WITNESS, my hand and the Seal of said Surrogate's Court this 10TH day of APRIL 18 89
Evans V Brewster

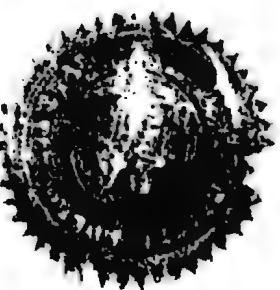
State of New York }
County of Westchester } ss.

I, PHILIP B. PUGSLEY Chief Clerk of the Surrogate's Court of the County of Westchester, do hereby certify that HONORABLE EVANS V. BREWSTER whose name is subscribed to the preceding Certificate, is the Surrogate of the County of Westchester, duly elected, sworn and qualified, and that the signature of said Surrogate to said Certificate is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the said Court, this

10TH day of APRIL 18 89

Chief Clerk of the Surrogate's Court



White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787

Tel +1 212 819 8200
Fax +1 212 354 8113
whitecase.com

Direct Dial + 212-819-8740 pschaeffer@whitecase.com

January 8, 2013

VIA UPS

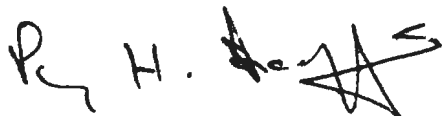
Mrs. Edmund McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Dear Mrs. McCormick:

We received your letter of January 2, 2013. We can only assume you did not receive our letter of December 17, 2012. The letter responded to your letter of December 10, 2012. We are, therefore, enclosing a copy of our letter which, contrary to your assertion, fully responds to that December 10, 2012 letter.

We are also enclosing a copy of the affidavit of November 26, 1996 which has attached to it our invoices and was submitted to the Surrogate's Court, Westchester County. We are confident that you contemporaneously received a copy of the affidavit and exhibits.

Very truly yours,



Philip H. Schaeffer
General Counsel

PHS:sfg

Enclosures

cc: David Keyko, Esq. (via e-mail)
Winthrop Rutherford, Jr., Esq. (via e-mail)

Exhibit 94

White & Case LLP
1155 Avenue of the Americas
New York, New York 10036-2787

Tel +1 212 819 8200
Fax +1 212 354 8113
whitecase.com

Direct Dial + 212-819-8740 pschaeffer@whitecase.com

December 17, 2012

Mrs. Edmund McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Dear Mrs. McCormick:

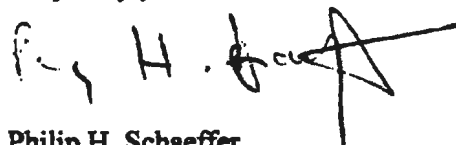
As you may recall, I am the General Counsel to White & Case LLP. I am responding on behalf of both Winthrop Rutherford, Jr. and the Firm to your letter of December 10, 2012.

You seek in that letter an answer to the question:

“What is the position of White & Case and you [Mr. Rutherford] with regard to Ed [McCormick]’s estate?”

The “position” of the Firm and Mr. Rutherford is that since both terminated their representation of the executors of that estate so many years ago, they have no “position” with respect to the estate other than as a creditor of the estate. Otherwise, we refer any questions you may have to Mr. Keyko with whom you are, of course, acquainted.

Very truly yours,



Philip H. Schaeffer
General Counsel

PHS:sfg

cc: David Keyko, Esq. (via e-mail)
Winthrop Rutherford, Jr., Esq. (via e-mail)

RECEIVED
SURROGATE

MAR 29 2004

WESTCHESTER COUNTY

At the Surrogate Court of the State of
New York held in and for the County
of Dutchess at the Courthouse at
Poughkeepsie, New York, on 22nd day
of March, 2004

STATE OF NEW YORK
SURROGATES COURT: DUTCHESS COUNTY acting for WESTCHESTER COUNTY

In the MATTER of the Petition of

Index No. 3522/1988

BANKERS TRUST COMPANY, and HERMAN
MARKOWITZ, for settlement of their Account
as co-executors of the Last Will and Testament of

ORDER TO SHOW
CAUSE

EDMUND J. MCCORMICK,

Deceased,

and for a direction pursuant to SCPA §2215 for repayment
of excess distributions to an interested party, and for
recovery of Estate assets from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will and Testament of

EDMUND F. McCORMICK,

Deceased.

UPON the annexed Affirmation of Jason Bogli, Esq. dated March 18, 2004; the Affidavit
of Suzanne McCormick dated March 22, 2004, and upon all prior papers and proceedings
heretofore had herein, and sufficient cause appearing:

LET any party to this litigation show cause before this Court, at the Courthouse thereof,
located at 10 Market Street, Poughkeepsie, New York, in the County of Dutchess on the 25th 8th

Exhibit 95

day of ~~March~~ April 2004, at 9:30 a.m/p.m., or as soon thereafter as counsel can be heard, why an order should not be entered for: 1) the removal or prohibition of service as an executor by "Bankers Trust Co." a/k/a "Deutsche Bank" pursuant to a certain motion submitted by Suzanne McCormick to the Surrogate Court, Westchester County in October 2002 which remains undecided; 2) why evidence and arguments contained in these papers should not be considered on that motion; and, 3) and for an order directing the alleged executor "Bankers Trust Co." a/k/a "Deutsche Bank" to disburse income and principal pursuant to the plain reading of the QTIP trust contained in the Will of Edmund J. McCormick, and for such other and further relief as may be deemed just and proper,

~~Pending further determination by this Court, "Bankers Trust Co." a/k/a "Deutsche Bank" a/k/a Deutsche Bank Trust Company Americas is hereby restrained from transferring any Estate monies;~~

JDP
BCJ

SUFFICIENT REASON APPEARING THEREFORE, it is hereby:

ORDERED, that mailing of a copy of this Order and all of the papers upon which it has been granted by first class mail or by overnight courier by March ~~22~~ 26, 2004 shall be deemed full and sufficient service, upon all counsel in this proceeding including:

Pillsbury Winthrop LLP
Attorney for Bankers Trust Company
Attn.: David Keyko, Esq.
1540 Broadway
New York, NY 10036
(212) 858 - 1000

Brief Justice Carmen Kesselman Knapp & Kleiman, LLP
Attorneys for Co-executor Herman Markowitz
Attn.: Adria de Landri, Esq.
805 Third Avenue, Suite 600
New York, NY 10022
(212) 758 - 6160

David Geis, Esq.
Attorney for Co-executor Edmund J. McCormick, Jr.
Phipps and Geis
430 William Hilton Parkway, Suite 505
William Hilton Parkway, Suite 505
Hilton Head Island, South Carolina 29926
(843) 689-6242

Arnold & Porter
Attorneys for Co-executor Alfred S. Howes
Attn.: Charles S. Berry, Esq.
335 Madison Avenue, 26th Floor
New York, NY 10017-4605
(212) 715-1000

McElroy, Deutsch and Mulvaney
Attorneys for Metropolitan Management Corp.
Attn.: Brian Carey, Esq.
Wall Street Plaza
88 Pine Street
New York, NY 10005
212- 483 - 9490

White & Case LLP
Attorneys for the Estate of Edmund J. McCormick
Attn.: Robert Tiedeman, Esq.
Winthrop Rutherford, Jr., Esq.
1155 Avenue of the Americas
New York, NY 10036
212-819-8200

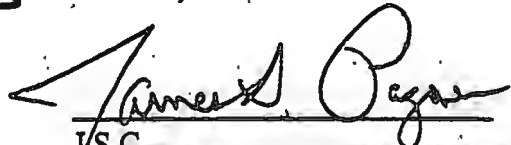
~~Any papers in opposition are to be served upon Suzanne McCormick's counsel by~~

~~_____ , 2004.~~

~~Any papers in reply are to be served by _____ , 2004.~~

Dated: Poughkeepsie, N.Y.
March 22, 2003

ENTER,


J.S.C.
HON. JAMES D. PAGONES

STATE OF NEW YORK
SURROGATES COURT: DUTCHESS COUNTY acting for WESTCHESTER COUNTY

-----X
In the MATTER of the Petition of
BANKERS TRUST COMPANY, and HERMAN
MARKOWITZ, for settlement of their Account
as co-executors of the Last Will and Testament of
EDMUND J. MCCORMICK,

Index No. 3522/1988

Deceased,

and for a direction pursuant to SCPA §2215 for repayment
of excess distributions to an interested party, and for
recovery of Estate assets from

EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.

d/b/a McCORMICK ORGANIZATION.

AFFIRMATION
OF JASON E. BOGLI
IN SUPPORT OF
ORDER TO SHOW CAUSE
1) COMPELLING
DECISION ON REMOVAL
OF BANKERS TRUST CO.;
2) TO CONSIDER
ADDITIONAL EVIDENCE
ON THAT MOTION;
3) FOR PAYMENT OF
PRINCIPAL AND INCOME
PURSUANT
TO THE QTIP TRUST

-----X
In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will and Testament of

EDMUND F. McCORMICK,

Deceased.

-----X
JASON E. BOGLI, an attorney duly admitted to practice before the Courts of the State of
New York hereby affirms that the following is true and correct:

1. I represent Suzanne McCormick, executor and main beneficiary under the Will
and QTIP trust of the late Edmund J. McCormick in this action. I make this affirmation in
support of this application why; be entered: 1) for the removal of, or prohibition of, Bankers
Trust Company ("Bankers Trust Co.") a/k/a Deutsche Bank Trust Company of Americas
("Deutsche Bank") from acting as an executor pursuant to a certain motion submitted by Suzanne

McCormick to the Surrogate Court, Westchester County in October 2002 which remains undecided, and; 2) For the Court to consider evidence and arguments contained in these papers on that motion; 3) and for an order directing "Bankers Trust Co." a/k/a Deutsche Bank to disburse principal of \$50,000 per year, plus income pursuant to the plain reading of the QTIP trust contained in the Will of Edmund J. McCormick and for compounded interest at the rate of 9% per annum for the administration of the estate, and for such other and further relief as may be deemed just and proper. I base this affirmation on records in Suzanne McCormick's possession unless otherwise indicated.

2. No previous application has been made for the relief requested herein except the motion to remove "Bankers Trust Co." submitted October 1, 2002, which remains undecided.

3. Suzanne McCormick makes this application by Order to Show Cause since "Bankers Trust Co." a/k/a Deutsche Bank is in possession of estate and QTIP trust funds, and continues to disburse these funds without being a properly named executor and having renounced its trusteeship, and upon information and belief will continue to spend estate monies without this application.

4. I have attached hereto an addendum which lists the exhibits attached to this application.

5. This case involves an Estate with assets valued at THIRTY-SEVEN MILLION (\$37,000,000) dollar. See Exhibit 1 (Statement of Net Worth). "Deutsche Bank" a/k/a "Bankers Trust Co." maintains estate funds in its accounts. See Exhibits 20 and 33.

6. "Deutsche Bank" a/k/a "Bankers Trust Co." should be removed as an alleged executor since: 1) "Bankers Trust Co." never received Letters Testamentary in this Estate but

continues to hold and disburse monies from this estate and QTIP trust; 2) "Bankers Trust Co." is a convicted felon; 3) "Bankers Trust of New York" and/or "Deutsche Bank" was never named in the Will of Edmund J. McCormick and therefore has no right to act as executor; 4) "Bankers Trust Co." is financially dishonest in this case and other well publicized cases and is also a convicted federal felon; 5) "Bankers Trust Co.'s" conduct in this case amounts to breach of fiduciary duty, neglect, and oppression.

7. Essentially the controversy pertaining to the payment of trust monies arises out of "Bankers Trust Co.'s" refusal to pay trust monies to Suzanne McCormick pursuant to the terms of a QTIP trust. "Bankers Trust Co." has alleged that no monies can be paid since "Bankers Trust Co." and White & Case have claimed against the estate for legal fees and administrative expenses. Yet despite this assertion, Bankers Trust has distributed funds to other beneficiaries in settlement of litigation without the approval of Suzanne McCormick, to other third-party beneficiaries and other vendors without her approval. The following affirmation will demonstrate that Suzanne McCormick is entitled to immediate payment of principal and interest for the past sixteen years according to the plain language of the Will and QTIP trust of Edmund J. McCormick and the stated definition of a QTIP trust as defined by the U.S. Code. The plain language of the Will and the definition of QTIP trust indicate a plain intention to distribute funds to Suzanne McCormick despite alleged outstanding administrative fees (which are collusively concocted by White & Case and Bankers Trust).

I. "BANKERS TRUST CO." / "DEUTSCHE BANK" SHOULD BE REMOVED, OR PROHIBITED FROM MASQUERADING AS AN EXECUTOR.

A. "BANKERS TRUST CO." WAS NEVER ISSUED LETTERS TESTAMENTARY AND TRANSFERRED ESTATE ASSETS BEFORE ANY LETTERS WERE ISSUED

8. Suzanne McCormick has no record that "Bankers Trust Company" ever received Letters Testamentary, but "Bankers Trust Co." continues to hold and disburse Estate funds. See Ex. 5 (Letters Testamentary "...were duly granted and issued..." on January 25, 1989 to "Bankers Trust Company of New York" Serial No. 214216).

9. The Will of Edmund J. McCormick identified "Bankers Trust Company," among others, as an executor to the estate and trustee to a QTIP trust in which Suzanne McCormick is the main beneficiary. See Exhibit 2, (Will of Edmund J. McCormick) at p. 14 para. 14.

10. However, Letters Testamentary "...duly granted and issued. . ." on January 25, 1989 to "Bankers Trust Company of New York," a separate and distinct entity from "Bankers Trust Company." See Exhibit 5 (Letters Testamentary) (Emphasis Added).

11. "Bankers Trust Company of New York" was not named in the Will, and therefore had no authority to act as an executor in this action.

12. Despite the fact that "Letters Testamentary" were only issued to "Bankers Trust Company of New York," "Bankers Trust Co." has filed numerous petitions and masqueraded as an executor in this Estate including a petition for payment to "Bankers Trust Company." All of "Bankers Trust Co.'s" petitions, applications, transfer of estate property and alleged "Final Accounting" are void ab initio since "Bankers Trust Co." acted without "Letters Testamentary."

13. Even if this Court were to find that "Bankers Trust Co." was authorized to act under the "Letters Testamentary" issued to another banking entity, "Bankers Trust Co." transferred Estate assets even before "Letters Testamentary" had been issued. Compare Ex. 4 to Ex. 5 (Letters from "Bankers Trust Co." indicated money transfers prior to the issuance of "Letters Testamentary"). A search of Suzanne McCormick's files have produced no record of Preliminary "Letters Testamentary" being issued.

B. "BANKERS TRUST CO." IS A CONVICTED FEDERAL FELON FOR MAKING FALSE BOOK ENTRIES IN CONNECTION WITH FIDUCIARY AND TRUST SERVICES WHICH PRECLUDES SERVICE AS AN EXECUTOR/FIDUCIARY

1. Bankers Trust Is A Convicted Felon and Not Eligible to Serve As An Executor

14. Even if "Bankers Trust Co. were to move to amend the Letters Testamentary, this Court should deny that application. "Bankers Trust Co." is a federal felon convicted of charges of financial dishonesty in making false entries in books and records, and therefore is not eligible to serve as an executor. See Exhibit 21 and 22, (Criminal Docket #: 99-CR-250-1; "Information" and Transcript of Guilty Plea). The indictment filed by the U.S. Attorney for the Southern District of New York clearly identifies that the charges implicate, "fiduciary and trust services to institutional and individual clients" See Exhibit 21, Criminal Docket at p. 2 (emphasis added). As such, the charges have a direct bearing on "Bankers Trust Co.'s" ability to fulfill its duties as a fiduciary and executor in this estate.

15. "Bankers Trust Co.'s" federal felony conviction also involved the treatment of unclaimed client funds and financial dishonesty. See Exhibit 21, "Information" at p.4.

16. By letter dated September 17, 2003, (In October 2003,) a release sent by counsel for "Bankers Trust Co." from the Office of the New York State Comptroller indicates that "unclaimed client funds" have now been discovered in this estate. See Exhibit 23, Demand for Release.

2. The "Alleged" Certificate of Relief From Disabilities Does Not Preclude Review By This Court

A. The Certificate Expressly Provides for Review By This Court

17. On a previous motion, "Bankers Trust Co." argued that it is entitled to act as an executor since it was "allegedly" granted a Certificate of Relief From Disabilities in an ex parte proceeding before the New York State Board of Parole. However, the certificate does not bind this Court, and does not prohibit a review by this Court of the "Bankers Trust Co." federal felony conviction. See Exhibit 24, "Certificate of Relief from Disabilities."

18. The Certificate of Relief from Disabilities offered by "Bankers Trust Co." states, "A conviction of the crime or the offense specified on the face of this certificate shall NOT prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified on the reverse side of this certificate as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or renew any license, permit or other authority or privilege." See Exhibit 24, (Certificate of Relief from Disabilities)(Emphasis Added).

19. In addition, this Court cannot ignore that the New York State Board of Parole exceeded its jurisdiction in granting this Certificate to a corporation. The Certificate has no binding effect. I am unaware of any other instance or precedent in which such a certificate has

been issued to a corporate entity rather than an individual. This Court is not bound by an erroneous administrative decision acting outside the scope of its authority.

20. Section 703 of the New York Correction Law provides that the New York State Board of Parole may issue a Certificate of Relief from Disabilities to an "eligible offender." See NY Correction Law § 703.

21. Section 700 of the New York Law defines an "eligible offender" as "a person who has been convicted of a crime or of an offense, but who has not been convicted more than once of a felony." See NY Correction Law § 700.

22. "Bankers Trust Co." is not an "eligible person" within the meaning of the correction law. The Correction Law contemplates that the certificate of relief from disabilities applies only to "persons," not to corporations. The jurisdiction of the Board of Parole is to govern individual's conduct in society, not to regulate corporate activity. Further, the correction law limits the ability of the Department of Corrections to issue a Certificate of Relief from Disabilities only to persons who have not been convicted of more than one felony. See Id.

23. Further doubt is cast upon the Certificate of Relief from Disability since Bankers Trust moved its fiduciary relationships from one corporate entity to another based upon the conviction. If "Bankers Trust Co." was certain that the "Certificate" would have protected all of the trusts and estates under its care, it would never have moved to substitute its fiduciary relationships in an action engineered by their counsel White & Case in New York County from "Bankers Trust Co." to "Bankers Trust Company of New York" in 1999. See Exhibit 43, Docket Sheet Index # 121823, 154 Notice of Petition.

B. The "Alleged" Certificate of Relief from Disabilities Was Issued Without a Full Record and In Violation of Due Process

24. Further, the "alleged" Certificate of Relief from Disabilities was issued without due process, notice or participation by Suzanne McCormick or this Estate. This Certificate of Relief from Disabilities "allegedly" granted by an administrative body without review of all the facts, including the facts of this case, should not have a preclusive effect in this matter. An incomplete record was presented to the administrative body which cannot bind this Court.

25. Despite, Suzanne McCormick's attempt to obtain records upon which the decision of the Department of Parole to issue the "alleged" Certificate from Relief From Disabilities was based by way of a Freedom of Information Request, the Department of Parole has yet to forward the records.

26. In fact, upon information and belief, the "alleged" Estate Counsel White & Case who also represented their "enduring client" "Bankers Trust Co." and "Bankers Trust Company of New York" in the "Substitution of Fiduciary" proceeding in New York County confiscated the records from the Department of Parole so that review of the record would be impossible. See Ex.

37

27. The "alleged" Certificate of Relief From Disabilities should be disregarded by this Court since Bankers Trust Co. a/k/a Deutsche Bank has proven itself a complete failure in this case, and has been found to be severely lacking in other cases.

3. "Bankers Trust Co." / "Deutsche Bank's" Culture of Dishonesty Is Pervasive and Precludes Service as an Executor

28. Since the submission of Suzanne McCormick's motion in October 2002 to remove "Bankers Trust Co." as an alleged executor in this matter, additional information has been discovered which is summarized below.

29. The United States Congress has found that "Bankers Trust Co." illegally set up off shore accounts for Enron to evade taxation. See Exhibit 27 (articles and excerpts from Hearing before Senate Committee on Finance by the Joint Committee on Taxation depicting Bankers Trusts involvement with Enron); see also Exhibit 27 (Report of the Joint Committee on Taxation on the Enron Investigation in which "Bankers Trust Co." was found to be the Promoter of Enron).

30. Also, the United States Congress is pushing for an SEC investigation of "Bankers Trust Co." to determine the propriety of Bankers Trusts actions with Enron. See Id.

31. A subsidiary of "Bankers Trust Co.," BT Securities has been found to have violated Securities Exchange Commission regulations. See Ex. 27 dated December 22, 1994.

32. In addition, the managing partner and administrative head of the trust department, William Wilkie of "Bankers Trust Co.," intentionally deceived and obstructed discovery in this action by denying the existence of essential internal manuals pertaining to trust administration. See Exhibit 40, Excerpt of Wilkie (McCormick Matter) deposition dated April 13, 1998. In another deposition of William Wilkie stated that "Bankers Trust Co." had procedural manuals. Also see excerpt of Wilkie (Manny Matter) deposition dated June 20, 2001.

33. This same William Wilkie filed a false affidavit/verification in connection with the accounting claiming that he had read the foregoing petition. He later admitted in his

deposition that he had not read the accounting or the Petition but had merely reviewed part it. See Exhibit 41. (Deposition Transcript of William Wilkie dated 4-14-98, pl. 164 & 165, ll. 1-50, affidavit/verification pages from Petition.

34. "Bankers Trust Co." has been found liable for civil racketeering, and has been the subject of numerous other suits for fraud and deception including a suit which included 'RICO' charges brought by Proctor & Gamble. See Exhibit 27 (Wall Street Journal Article, October 4, 1995); Exhibit 22 (Business Week Article October 16, 1995).

35. The compliance officer at Bankers Trust Co. who served during the administration of this suit was convicted of insider trading. See Id.

36. Joseph Ackermann, CEO of Deutsche Bank, AG in Frankfurt Germany is currently standing criminal trial for breach of fiduciary duty as a director of Mannesmann, AG. See Exhibit 36 (Financial Times October 13, 2003).

37. "Bankers Trust Co." and "Deutsche Bank" are currently on probation with the Department of Labor and are operating under exemptions involving ERISA pension funds for their nefarious business practices and also due to the federal felon conviction. See Exhibit 44 (June 7, 1999 notice and July 27, 1999 notice).

38. Given Deutsche Bank's German Heritage issues of its involvement in World War II activities, and its current involvement in the middle east contrary to United States foreign policy are concerns which should not be overlooked.

C. DEUTSCHE BANK - A BANKING ENTITY WITHOUT LETTERS AND NOT NAMED IN THE WILL - CONTINUES TO MASQUERADE AS AN EXECUTOR IN VIOLATION OF LAW

39. Even if this Court were to overlook: 1) that "Bankers Trust Co." was not issued "Letters Testamentary;" 2) that "Bankers Trust Co." transferred Estate assets even before "Letters Testamentary" had been issued; 3) that a felony conviction pertaining to trust and fiduciary relationships bar "Bankers Trust Co.'s" service as an executor; 4) that Bankers Trust Co. is financially dishonest and is a complete failure in this estate and others, this Court should find that "Deutsche Bank" (the current entity masquerading as an alleged executor) is not authorized to act as an executor in this Estate since it is not named in the will, its name is not on any letters testamentary, and this Court has not issued any order allowing the bank to operate in this Estate.

40. There can be no dispute that "Deutsche Bank" is the entity currently acting as executor. "Deutsche Bank" holds the remaining monies of this Estate. See Exhibit 33 (Bank Statements indicating "Deutsche Bank" as the responsible bank).

41. "Deutsche Bank's," general counsel, oversees this litigation, has appeared at a deposition, and is generally known to oversee the attorneys of the law firm of Pillsbury Winthrop acting on "Deutsche Bank's" behalf.

42. Further, Attorneys for the entity formerly known as "Bankers Trust Co." identify themselves as counsel to "Deutsche Bank."

pillsbury

COPY

FOR DAVID KEYKO

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March 13, 2013

Erica DeTraglia, Esq., Chief Clerk
State of New York
Surrogate's Court of the County of Dutchess
County Courthouse
10 Market Street
Poughkeepsie, NY 12601

Re: Estate of Edmund McCormick
Court File Number 1988-3522

Dear Ms. DeTraglia :

At your request, I am enclosing the following documents that were previously filed with the Court:

1. Notice of Motion dated February 25, 2003 and attached affidavit of David G. Keyko.
2. Stipulation and Order dated March 3, 2003 executed by Edmund J. McCormick, Jr., Alfred S. Howes and Bankers Trust Company.
3. Notice of Entry dated April 22, 2003 of Decision and Order of the Court dated April 11, 2003.
4. Decision, Order and Decree of the Court dated June 3, 2003.

I have copied the counsel to whom your letter of March 6, 2013 was addressed. In addition, I have copied Mr. Samuel J. Gilbert. Mr. Gilbert has advised me that he has been retained by Mrs. McCormick to represent her in this matter. I advised Mr. Gilbert that a conference at which the substitution of Mr. Jason Bogli for Dowd & Marotta LLC was approved, the Court stated that it would not permit Mrs. McCormick to change lawyers again and that if she no longer wished to employ the services of Mr. Bogli, she would have to appear *pro se*. I note that I am not aware of Mr. Gilbert filing a notice of appearance, but Deutsche Bank Trust Company

Exhibit 96


DAVID
3-22-13
FAX: 212-858-1500
CONFIRMING MY
VOICEMAIL MESSAGE, I
NO LONGER REPRESENT
SUZANNE MCCORMICK,
EFFECTIVE 1/10/13 -

I DID NOT FILE A NOTICE
OF APPEARANCE - I HAVE
FORWARDED YOUR LETTER
TO MS. MCCORMICK.

Americas (formerly known as Bankers Trust Company) reserves its right to object should he do so in the future.

Please let me know if I can be of further assistance.

Respectfully yours,



David G. Keyko

cc: Without Enclosures

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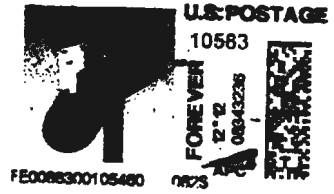
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SUZANNE MCCORMACK
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DOBBS FERRY, NY
10522



SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
In the Matter of the Petition of BANKERS TRUST
COMPANY, and HERMAN MARKOWITZ, for
settlement of their Account as co-executors
of the Last Will and Testament of

DECISION,
ORDER, AND
DECREE

EDMUND J. McCORMICK,

Deceased,

File No. 1988-3522

and for a direction pursuant to SCPA §2215 for
repayment of excess distributions to an interested
party, and for recovery of Estate assets from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

-----X
In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will and
Testament of

EDMUND J. McCORMICK,

Deceased.

-----X
**PAGONES, J.D., S.C.J., Acting Surrogate of
Westchester County Surrogate's Court**

On August 6, 2002, co-executor Bankers Trust Co., n/k/a Deutsche Bank (Deutsche) filed
a motion for an order compelling Bernard Gartlir to produce all documents he had previously
been ordered to produce by court order dated June 26, 2002.

On September 23, 2002, Deutsche filed a motion dated September 10, 2002 for an order
directing non-party Patrick Hanley to respond to certain deposition questions.

On September 26, 2002, co-executor Suzanne McCormick (Mrs. McCormick) cross-

Exhibit 97

moved for an order pursuant to CPLR 3214 to compel Deutsche to comply to a demand to produce and to compel a response to interrogatories.

On October 17, 2002, Deutsche filed a motion dated October 15, 2002 for an order directing Mrs. McCormick to comply with discovery and for sanctions.

On October 30, 2002, Mrs. McCormick moved, by Order to Show Cause, to remove Deutsche as executor and for the recusal of Surrogate Scarpino.

On March 22, 2004, Mrs. McCormick moved, by Order to Show Cause, to remove Deutsche and for an order compelling disbursement of income and principal from a trust.

On December 11, 2002, Surrogate Scarpino issued a decision denying Deutsche's motion to compel Hanley. The decision held further that the portion of Mrs. McCormick's cross-motion seeking copies of deposition video tapes was moot as Deutsche had agreed to provide them. Surrogate Scarpino also held that Deutsche, as well as co-executors Edmund McCormick, Jr. (Edmund) and Herman Markowitz (Herman) must comply with demands numbered 1, 2 and 5-7 served on August 22, 2002. Deutsche was required to respond to demand 4 by producing transcripts of certain audio tapes. Deutsche was further required to produce copies of all exhibits used at depositions, including the deposition of John Beck. Surrogate Scarpino conditioned the production of all documents upon Mrs. McCormick's "prior payment of the reasonable cost of the production." Surrogate Scarpino reserved decision on Mrs. McCormick's application to compel a response to interrogatories.

On February 6, 2003, Surrogate Scarpino granted the application for recusal. By order of the Administrative Judge for the Ninth Judicial District, dated February 24, 2003, all pending matters were assigned to Hon. Alfred J. Weiner, Surrogate of Rockland County.

Deutsche moved, on or about February 25, 2003, for an order deeming Mrs. McCormick's September 26, 2002 cross-motion abandoned for failure to submit an order pursuant to 22 NYCRR §207.37(a). On April 11, 2003, Surrogate Scarpino rendered a decision and order granting the motion to the extent that the Court entered Deutsche's proposed counter-order.

Before any of the remaining motions were decided, the Administrative Judge, on April 2, 2003, assigned all pending matters to this court.

Based upon a review of this court's records by the current Chief Clerk of the Dutchess County Surrogate's Court, who was appointed in November, 2010 to replace the retiring Chief and Deputy Chief Clerks, none of the above motions were ever docketed in Dutchess County and did not appear on any calendar in November, 2010. According to the current Chief Clerk, she was advised during her transition that all matters assigned to this court relative to this estate had been decided and there were no pending issues. Upon receipt of a letter, dated May 12, 2012, from Mr. Edmund McCormick, a comprehensive review was made to determine the existence of any pending matters. Each of the above undocketed and undecided motions was subsequently discovered among the eight boxes of submissions representing the proceedings in this estate. It appears that the motions remained undecided because they were not docketed on the calendar of pending motions and petitions.

Compel Gartlir to Produce

Deutsche moved by order to show cause for an order compelling attorney Bernard Gartlir to produce all documents as previously ordered by the court. Mr. Gartlir indicated, in response to that order, that he refused to produce certain documents, asserting privilege. After an *in*

camera inspection of the challenged documents Surrogate Scarpino, on September 23, 2002, rendered an oral decision to the motion to compel and orally directed Mr. Gartlir to produce certain documents. Mrs. McCormick was directed to settle an order if she wished Surrogate Scarpino's decision to be in writing. The record does not reflect that such an order was ever submitted by Mrs. McCormick.

Extend Discovery Schedule

On October 30, 2002, Mrs. McCormick moved, by order to show cause, to, *inter alia*, extend the discovery schedule which had been ordered at the inception of this proceeding. On November 23, 2001, Surrogate Scarpino issued a Discovery Order, which was amended on May 8, 2002. Movant has not offered sufficient justification to further extend the discovery order which had already been amended to accommodate the parties. For the foregoing reasons, Mrs. McCormick's application to extend discovery in this proceeding is denied.

Compel Response to Interrogatories

Surrogate Scarpino's Discovery Order provided that:

"all demands for Discovery and Inspection including interrogatories and motions for requests for production on non-parties are to be served on or before December 12, 2001."

Neither party requested nor moved for an extension of that deadline and no extension was established by the Court.

On August 20, 2002, Mrs. McCormick served interrogatories on Deutsche and Edmund. Deutsche had previously responded to interrogatories that were timely served by Mrs. McCormick. Deutsche timely rejected the August 20, 2002 interrogatories.

The interrogatories dated August 20, 2002 relate to Surrogate Scarpino's employment while at Banker's Trust, Deutsche's predecessor. Attorney Bogli avers that responses are necessary to address the issue of Surrogate Scarpino's recusal. Any such necessity is no longer relevant as Surrogate Scarpino has recused himself.

The interrogatories served by Mrs. McCormick on August 20, 2002 were not timely served pursuant to the discovery order of Surrogate Scarpino. Further, the interrogatories are not relevant to the issues presented in this contested accounting proceeding. For the foregoing reasons, it is ordered that Mrs. McCormick's motion to compel responses to interrogatories is denied.

Compel Mrs. McCormick to Disclose and Impose Sanctions

Deutsche moves for an order directing Mrs. McCormick "to comply with certain discovery obligations" and for the imposition of sanctions against Mrs. McCormick and her agents "for discovery abuses." Movant's attorney has not filed a separate affirmation of good faith, but his affidavit in support of this application comports with the requirements of 22 NYCRR §202.7.

Surrogate Scarpino's discovery order allows a party to serve a post-EBT demand for discovery and inspection "within 10 days after the EBT to which it relates." The order requires that such a demand "shall be responded to within 14 days after services thereof." (sic)

Movant Deutsche timely served a post-EBT demand for discovery and inspection on Mrs. McCormick on August 9, 2002. By letter, dated August 19, 2002, movant's counsel reminded Mrs. McCormick's attorney that responses were due on August 23, 2002. Mrs. McCormick failed to respond to the post-EBT demand and movant's counsel reminded her attorney by letter,

dated August 27, 2002, of her obligation pursuant to the order of the court. Mrs. McCormick failed to move for a protective order or to otherwise object to the post-EBT demand and has simply failed to respond. In response to the instant motion, Mrs. McCormick's attorney avers, without any evidentiary support, that he is working diligently to respond without offering any explanation for the continued failure. Counsel raises no objection to any of the demands and simply seeks more time to respond.

Movant Deutsche also asserts that Mrs. McCormick has secreted documents that were the subject of a subpoena, dated August 21, 2002, which was served on Alexander Lehmann. At Lehmann's non-party deposition on September 16, 2002, he acknowledged receipt of the subpoena including an attachment entitled "Documents to be Produced." Lehmann averred that, after he was served with the subpoena, he returned to Mrs. McCormick two boxes of documents, representing all the documents in his possession pertaining to this estate. At Lehmann's deposition, Deutsche's counsel demanded that Mrs. McCormick produce the two boxes of documents from Lehmann. Mrs. McCormick's counsel took the request "under advisement" and has since failed to respond to Deutsche's continuing written demands for the same. Instead, Mrs. McCormick has provided what purports to be a list of documents which Lehmann "examined" on behalf of Mrs. McCormick. Mrs. McCormick has offered no justification for her failure to produce the subpoenaed documents and proffers no explanation for her complicity in blatantly ignoring a lawful subpoena and secreting subpoenaed documents. Under the circumstances, preclusion is an appropriate remedy. (*Dalton v. Nalven*, 245 AD2d 540 [2d DEPT 1997])

Movant also complains about the conduct of non-party Patrick Hanley at the deposition of Lehmann. Deutsche has submitted the affidavit of Roberta Caiola, a shorthand reporter and notary public who was present before and during the deposition in question. Ms. Caiola avers

that she was setting up for the deposition when Lehmann was escorted into the room. At some point, before anyone else arrived, Deutsche's attorney Anne Schwab brought in a box and placed it on a chair on the opposite side of the table from Lehmann, stating that the box belonged to Deutsche's counsel, Mr. Keyko. Ms. Schwab then exited the room. Ms. Caiola avers that there were no loose papers on the table at any time after Ms. Schwab left the box. Ms. Caiola avers that she observed Hanley remove files from Attorney Keyko's box of litigation material and observed Hanley making notes from the documents he was examining. It goes without saying that such conduct is entirely improper. Hanley avers that the document he was examining was lying loose on the table. Attorney Schwab avers that when she escorted Mrs. McCormick into the deposition room she observed "Mr. Hanley going through Mr. Keyko's papers."

Specifically, Attorney Schwab affirms that:

"Mr. Hanley had removed some of the folders from the box, had put them on the table and was reviewing them and writing notes about their contents on a yellow legal pad."

Deutsche moves for sanctions to be applied in response to Hanley's conduct. Deutsche requests that Hanley be barred from assisting Mrs. McCormick further in this accounting proceeding and that all materials prepared by Hanley be disclosed to Deutsche.

Hanley does not deny that he examined Mr. Keyko's litigation material without permission or that he compiled several pages of notes from those privileged documents to be used for the benefit of Mrs. McCormick in this proceeding. Hanley only denies the manner in which he obtained the confidential material. Hanley dubiously contends that Attorney Keyko's litigation material was left out on the conference table like a "discarded newspaper". That disputed fact is not material to this application. The undisputed fact is that Hanley intentionally undertook to obtain an improper litigation advantage by using opposing counsel's privileged

work-product which would otherwise be protected from lawful disclosure. Hanley's egregious misconduct requires some sort of sanction. (*Lipin v. Bender*, 193 AD2d 424 [1st DEPT 1993], aff'd 84 NY2d 562 [1994]. In this instance, suppression pursuant to CPLR 3103 would not be an effective remedy because the documents which Hanley improperly examined were not physically removed and cannot not likely to be proffered as evidence since they consist of Mr. Keyko's notes regarding litigation strategy and similar attorney work-product. The privileged information which Hanley wrongfully garnered cannot be purged from his memory by an order of this court and there is no effective remedy to suppress the information Hanley may have already passed on to Mrs. McCormick or her counsel. If Hanley were Mrs. McCormick's attorney, disqualification would be appropriate under these circumstances. (*Matter of Beiny*, 129 AD2d 126 [1st DEPT 1987], appl. disp'd 71 NY2d 994 [1988]) Hanley's misconduct is compounded by his absolute failure to take responsibility for his actions, leaving the door open for the misconduct to be repeated in the future absent court intervention. (*Doody v. Gottshall*, 85 AD3d 1562 [4th DEPT 2011]) Hanley has been described by Mrs. McCormick's attorney as her "agent" and, alternately, her "assistant." As such, Hanley's misconduct is imputable to Mrs. McCormick. Deutsche has provided no authority for this court to prevent Hanley from "assisting" Mrs. McCormick or to require that all materials prepared by Hanley be disclosed without regard to any claim of attorney-client privilege or work product protection. Movant has established that Mrs. McCormick has frustrated disclosure by disobeying the unequivocal order of the court, utilizing her agent to frustrate document production by ignoring a subpoena and, through a second agent, improperly obtaining confidential attorney work-product. Mrs. McCormick has not offered any justification for her failure to disclose or to produce the subpoenaed documents. (*Frias v. Fortini*, 240 AD2d 467 [2d DEPT 1997])

This court finds that Mrs. McCormick has intentionally disobeyed an order of the court and has repeatedly, willfully frustrated Deutsche's attempts at disclosure. This court finds further that Mrs. McCormick's agent has intentionally violated the privilege attached to Mr. Keyko's attorney work-product in order to obtain a tactical advantage in this litigation. It has been held that under such circumstances dismissal of Mrs. McCormick's objections would be appropriate. (*DeMasi v. Dine*, 155 AD2d 583 [2d DEPT 1989], *appl den'd* 76 NY2d 703 [1990]; *Beard v. Peconic Foam Insulation*, 149 AD2d 555 [2d DEPT 1989]). While dismissal of Mrs. McCormick's objections would be appropriate based on all of the willful and contemptuous conduct by her and her agents, this court finds that monetary and other sanctions are preferable in the first instance. (*Geltman v. St. Agnes Hospital*, 186 AD2d 534 [2d DEPT 1992]; *Taub v. Wulwick*, 168 AD2d 492 [2d DEPT 1990])

Therefore, for all of the foregoing reasons, it is ordered that the objections of Suzanne McCormick to the final accountings submitted herein shall be dismissed unless, within thirty (30) days from the date of this order:

1. Suzanne McCormick shall remit the sum of \$5,000.00 to Deutsche Bank by its attorneys, Pillsbury Winthrop LLP and Mrs. McCormick shall provide written proof of payment to this court; and

2. Suzanne McCormick shall provide a full and complete response, without any objections, to Deutsche's post-EBT demand for discovery and inspection served on August 9, 2002 on or before April 30, 2013 unless already provided; and.

3. Suzanne McCormick shall produce all documents formerly in the possession of Alexander Lehmann and returned to Mrs. McCormick between August 21, 2002 and September

16, 2002 on or before April 30, 2013 unless already provided; and,

4. Suzanne McCormick shall make all of her non-privileged audio tapes related to this accounting proceeding available to Deutsche, through counsel, for copying at Deutsche's expense on or before April 30, 2013 unless already provided.

In the event that Suzanne McCormick fails to timely and fully comply with each of the above directives, then counsel for Deutsche may submit, on notice, an affirmation setting forth in what manner Suzanne McCormick has failed to comply along with a proposed order and decree dismissing her objections in this proceeding. Suzanne McCormick shall have ten (10) calendar days to respond to such a submission.

It is further ordered that Patrick Hanley shall not be present at any pre-hearing proceeding of any sort related to this estate.

It is further ordered that Alexander Lehmann and Patrick Hanley shall be precluded from testifying on behalf of Suzanne McCormick at any hearing in this proceeding because of their separate wrongful conduct.

Remove Deutsche as Co-Executor

SCPA §707(1)(d) provides that letters may not issue to a natural person or person authorized by law to be a fiduciary who is a felon.

SCPA §711 permits the court to revoke letters of a fiduciary who is not eligible pursuant to §707. SCPA §711 also permits the court to remove a fiduciary for misconduct.

Mrs. McCormick first asserts that Deutsche, f/k/a Bankers Trust, was convicted of a felony in Federal Court disqualifying it to serve as co-executor. It is undisputed that in 1999 the

bank entered into an agreement to plead guilty to a felony information charging Bankers Trust Company with making false entries on the books and records of a federally regulated bank. It is also beyond dispute, however, that on December 2, 1999 the New York State Board of Parole issued a certificate for relief from disabilities specifically relieving the bank "of the forfeitures, disabilities or bars" of "SCPA Section 707(1)d" (sic)

Mrs. McCormick's conclusory and unsubstantiated allegations of fiduciary wrongdoing are insufficient to establish any conduct by Deutsche which would endanger the safety of the estate so as to warrant a hearing concerning the alleged misconduct. (*Matter of Duke*, 87 NY2d 465 [1996]; *Matter of Petrocelli*, 307 AD2d 358 [2d DEPT 2003]) This court finds that Suzanne McCormick has failed to demonstrate that Deutsche is unfit or ineligible to serve as fiduciary so as to warrant removal. (*Matter of Marsh*, 179 AD2d 578 [1st DEPT 1992]) For all of the foregoing reasons, it is ordered that Suzanne McCormick's application to remove Deutsche as co-executor is denied.

Disburse Income and Principal

SCPA §2102(4) permits a person to commence a proceeding to require a fiduciary to pay a legacy, distributive share or interest in a trust. Suzanne McCormick moves for an order directing Deutsche to distribute income and principal pursuant to a trust established in the will of the decedent.

SCPA §2101(1)©) requires that a beneficiary institute such a proceeding by petition. Mrs. McCormick has filed a motion for the relief demanded. The court will not entertain such an application without the proper pleading.

Even if the court were to consider the merits of Mrs. McCormick's application, it is

insufficient on its face to warrant the relief requested.

Therefore, it is ordered that Suzanne McCormick's motion to distribute income and principal of the trust is denied.

The Court read and considered the following documents on these applications:

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18.	Affirmation in Opposition – Keyko	1 – 19
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The court has reviewed the parties' submissions and finds that factual issues have been raised which necessitate a hearing. Pursuant to SCPA §506(1), Attorney John K. Gifford, c/o Van DeWater & Van DeWater, LLP, P.O. Box 112, Poughkeepsie, New York 12602, (845) 452-5900, is appointed referee to hear and report his findings of fact and conclusions of law on all issues pertaining to the accounting should it go forward.

The referee may issue subpoenas, administer oaths, direct and supervise disclosure, and conduct a hearing. (CPLR §4201; SCPA §506[1].) The referee shall be compensated at the rate of \$300.00 per hour, including his reasonable and necessary expenses incurred. (SCPA §506[5]; CPLR §§8003[a] and 4321.) Suzanne McCormick is directed to remit to the referee the sum of \$3,000.00 as security for his fees no later than April 25, 2013. A final determination as to the amount of fees and the party or parties who will bear the responsibility of paying the referee's fees and expenses shall abide a subsequent order of this Court.

The parties are directed to conclude this matter no later than August 1, 2013. Leave of the court will be required to extend the aforementioned deadline. Leave of the referee is required to adjourn any hearing date. The hearing and any conferences are to be conducted in

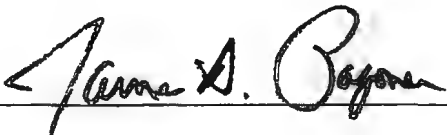
the ~~Town of~~ County Courthouse, 10 Market Street, Poughkeepsie, New York 12601. The referee may designate an alternate site in his discretion. A transcript of the testimony from any hearing conducted by the referee, together with the exhibits or copies thereof, shall be filed with the referee's report as to his findings of fact and conclusions of law within thirty (30) days after the trial has been finally submitted. (SCPA §506[3].)

The foregoing constitutes the decision, order and decree of the Court.

at: Poughkeepsie, New York

April 5, 2013

ENTER



HON. JAMES D. PAGONES, S.C.J.

TO: JOHN K. GIFFORD, ESQ.
Referee
Van DeWater & Van DeWater, LLP
P.O. Box 112
Poughkeepsie, New York 12602

SUZANNE McCORMICK
231 Clinton Avenue
Dobbs Ferry, New York 10522

DAVID P. GEIS, ESQ.
PHIPPS & GEIS, P.A.
430 William Hilton Parkway, Suite 505
Hilton Head, South Carolina 29926

ADRIA E. DeLANDRI, ESQ.
Brief Justice Carmen Kesselman & Kleiman, LLP
805 Third Avenue
New York, New York 10022

DAVID G. KEYKO, ESQ.
PILLSBURY, WINTHROP, SHAW & PITTMAN, LLP
1540 Broadway
New York, New York 10036

SAMUEL J. GILBERT, ESQ.
280 North Central Avenue, Suite 480
Hartsdale, New York 10530-1838

CHARLES G. BERRY, ESQ.
ARNOLD & PORTER
399 Park Avenue
New York, New York 10022

BRIAN J. CAREY, ESQ.
McELROY, DEUTSCH, MULVANEY
& CARPENTER, LLP
Wall Street Plaza
88 Pine Street, 21st Floor
New York, New York 10005

NEIL GRIMALDI, ESQ.
2860 Buhre Avenue
Bronx, New York 10461

022617 decision,order&decree

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

In the Matter of the Petition of BANKERS
TRUST COMPANY and HERMAN
MARKOWITZ for Settlement of Their
Account as Co-Executors of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased,

and for a direction pursuant to SCPA
§ 2215 for repayment of excess
distributions to an interested party, and for
recovery of estate assets due from
EDMUND J. McCORMICK, JR. and
BANK STREET INVESTMENT, INC.
d/b/a McCORMICK ORGANIZATION.

File No. 3522-1988

**CO-EXECUTOR BANKERS
TRUST COMPANY'S POST-EBT
DISCOVERY AND INSPECTION
DEMAND TO CO-EXECUTOR
SUZANNE V. McCORMICK**

In the Matter of the Proceeding by
ALFRED S. HOWES for Settlement of
Account as Co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased.

PLEASE TAKE NOTICE that, pursuant to Paragraph 9 of this
Court's Amended Discovery Order dated May 8, 2002 and Rule 3102 of the New York
Civil Practice Law and Rules ("CPLR"), Co-Executor Bankers Trust Company, now
known as Deutsche Bank Trust Company Americas (referred to herein as "Bankers Trust"), by
its attorneys Pillsbury Winthrop LLP, hereby requests that Co-Executor Suzanne V.
McCormick produce for inspection and copying, in accordance with the Instructions and
Definitions contained herein, the documents described below at the offices of Pillsbury

Exhibit 98

Winthrop LLP, One Battery Park Plaza, New York, New York 10004-1490, on or before August 23, 2002.

DOCUMENTS REQUESTED OF
SUZANNE V. McCORMICK

Any and all documents referenced or alluded to during your Examination Before Trial held from July 24 to July 30, 2002, to the extent such documents have not already been produced by you pursuant to Bankers Trust's prior document requests. These documents include, but are not limited to, the following:

1. All correspondence between you and your husband, Edmund J. McCormick ("Ed Sr."), in the last two years of his life (*i.e.*, from November 27, 1986 through November 27, 1988).
2. Any documents prepared or gathered by of any of your "assistants" (including, but not limited to, John Beck, Phil Caggiano, Patrick Hanley, Alexander Lehmann, Ralph Martinelli, Edward Stevenson, and Frederick Vogt) relating to the estate of Ed Sr. or your inheritance or legacy from Ed Sr. or this accounting proceeding.
3. All checks issued by you or on your behalf payable to any of the following:
 - John Beck
 - Bernard Gartlir (or his law firm)
 - Patrick Hanley
 - White & Case LLP (or Winthrop Rutherford).
4. Any bills, billing statements, or invoices sent to you by John Beck or Bernard Gartlir.
5. Any wills drafted for you since November 27, 1988.

6. Any appraisals or any other formal or informal evaluations made since November 27, 1988 of:
 - any works of art you currently own
 - any real property you currently own.
7. Any documents that are responsive to Bankers Trust's prior document requests (but have not been previously produced because, for instance, the documents came into your possession after you submitted your response to the prior requests).
8. Any communications to or from any domestic or foreign governmental agency (including but not limited to, the United States Department of Labor and the Internal Revenue Service) relating to (i) this accounting proceeding or (ii) Bankers Trust and/or any of its agents or affiliates.
9. The text of any speeches or press releases prepared or presented by or for you or Patrick Hanley relating to (i) this accounting proceeding or (ii) Bankers Trust and/or any of its agents or affiliates (including, but not limited to, the speech given by you at the Grammercy Hotel on May 4, 2001), and any tapes (audio and/or visual) of any such speeches or presentations.
10. Any communications to or from Heirs, Inc. relating to (i) this accounting proceeding or (ii) Bankers Trust and/or any of its agents or affiliates.
11. Any documents concerning any plans to picket or boycott Bankers Trust and/or any of its agents or affiliates.
12. Any information posted by you or on your behalf on the internet or the world wide web relating to (i) this accounting proceeding or (ii) Bankers Trust and/or any of its agents or affiliates.

INSTRUCTIONS AND DEFINITIONS

1. In responding to this document request, furnish all documents available, including those in the possession of your agents, employees and attorneys and not merely such documents as you may have within your immediate control. If you are unable to respond in full to a document request after exercising due diligence to obtain all the documents requested, so state; furnish the documents that are available; and indicate in writing your inability to provide the rest of the documents that are responsive to the request, setting forth whatever information, knowledge or belief you have concerning the unavailable documents.

2. To the extent that this request calls for what you believe to be documents subject to a claim of privilege, attorney's work product, or material prepared for litigation: respond to every part of this request that does not call for, in your view, privileged information or attorney's work product or material prepared for litigation; and with respect to each document you refuse to furnish (i) describe each such document, indicating the numbered document request or part thereof which calls for its production and setting forth its type (e.g., letter or memorandum), general subject matter, date, page length (if a written document), author, addressee and any other recipient and, where not apparent, the relationship of the author, addressee and any other recipient to each other, and (ii) set forth the basis for your claim of privilege or attorney's work product or material prepared for litigation and the basis upon which you refuse to produce it.

3. In the event that any document covered by this request has been lost, destroyed, or transferred to a third party over whom you claim you lack control, identify:

- a. the document by author, date, recipient, context and subject matter;
- b. the date and circumstances surrounding the loss, destruction, or transfer;

- c. the reason(s) for the loss, destruction, or transfer;
- d. the person responsible for the loss or destruction;
- e. the person(s) or entit(ies) to whom transferred;
- f. the document's present location; and
- g. the date and manner in which you can or may obtain each such document.

4. As used herein the terms "document" and "documents" mean any ~~and all~~ tangible things and documents, whether handwritten, typed, printed, e-mailed, ~~taped~~, filmed, photostated, copied or reproduced in any way, including but not limited to:

- a. external communications or interoffice communications, letters, telefaxes, telexes, e-mails, cables, telegrams, wires, and memoranda.
- b. reports, summaries, drafts, studies, minutes, notes, agendas, and transcripts;
- c. drawings and charts;
- d. tape recordings and other reproductions of sound or voices;
- e. photographs, films, videotapes, computer generated documents, recordings, e-mail cassettes, recordings, microfiche, and other reproductions;
- f. contracts, agreements and other official documents and legal instruments;
- g. published material of any kind;
- h. travel reports and vouchers;
- i. ledgers, bills, orders, books, records, invoices, checks, receipts, confirmations, estimates, claims and files;
- j. notebooks, calendars, appointment books, diaries, scrapbooks, schedules, and handwritten or other notes;

- k. working papers, sketches, drawings, pictures, plans, instructions, charts, papers, graphs, indices, catalogs, tabulations, data sheets, or data processing cards; and
- l. books, bills, pamphlets, periodicals, and published material of any kind.

“Document(s)” shall also include any draft or version of a document and all copies which are not identical to the original; all modifications or additions to any document, whether or not such copies or drafts are specifically mentioned in particular requests; and any material recorded on verbal, graphic, computer, electronic, telecommunicative, or magnetic form, and any other form capable of being read, heard or otherwise understood.

5. Except where the context requires otherwise, as used herein the term “you” means Suzanne V. McCormick, her agents, servants, associates, employees, corporate officers, attorneys, representatives, investigators, experts, or consultants employed, retained or hired by or on her behalf, and all others who have acted, purported to act, or obtained information for or on her behalf.

6. “Bankers Trust’s prior document requests” shall mean Co-Executor Bankers Trust’s First Request for Production of Documents to Co-Executors Edmund J. McCormick, Jr. and Suzanne McCormick and Co-Executor Bankers Trust’s Second Request for Production of Documents to Co-Executor Suzanne McCormick, each dated November 11, 1998; Co-Executor Bankers Trust’s Third Request for Production of Documents to Co-Executor Suzanne McCormick, dated December 11, 2001; and the handwritten request dated July 29, 2002 provided to Jason Bogli during the deposition of Suzanne McCormick.

7. The singular shall include the plural and the plural shall include the singular.

8. This document request, like all of Bankers Trust’s prior document requests, is a continuing one, and you shall produce in the form of supplementary

document productions any document requested herein (or requested in any of Bankers Trust's prior document requests) which is unavailable to you at the time of your response hereto but which becomes available to you or your agents or representatives up to the time of trial.

Dated: New York, New York
August 9, 2001

PILLSBURY WINTHROP LLP

By: David G. Keyko
David G. Keyko
(New York Bar No. DK-3386)

One Battery Park Plaza
New York, NY 10004-1490
(212) 858-1000
Attorneys for Co-Executor
Bankers Trust Company

TO:

DOWD & MAROTTA LLC
Attorneys for Suzanne V. McCormick
277 Broadway, Suite 1310
New York, NY 10007
Attn: Jason E. Bogli, Esq.

DAVID P. GEIS, ESQ.
Attorney for Co-Executor Edmund J. McCormick, Jr.
Phipps & Geis, P.A.
430 William Hilton Parkway, Suite 505
Hilton Head Island, SC 29926

BRIEF JUSTICE CARMEN KESSELMAN & KLEIMAN, LLP
Attorneys for Co-Executor Herman Markowitz
805 Third Avenue, Suite 600
New York, NY 10022
Attn: Stephen E. Kesselman, Esq.

ARNOLD & PORTER
Attorneys for Co-Executor Alfred S. Howes
399 Park Avenue
New York, NY 10022-4690
Attn: Charles G. Berry, Esq.

McELROY, DEUTSCH & MULVANEY, LLP
Attorneys for Metropolitan Management Corporation
Wall Street Plaza
88 Pine Street, 21st Floor
New York, NY 10005
Attn: Brian J. Carey, Esq.

WHITE & CASE LLP
Attorneys for Estate of Edmund J. McCormick
1155 Avenue of the Americas
New York, NY 10036-2787
Attn: Robert Tiedermann, Esq.

STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF WESTCHESTER

In the Matter of the Petition of BANKERS TRUST
COMPANY and HERMAN MARKOWITZ for
Settlement of their Account as Co-Executors of the Last
Will and Testament of

EDMUND J. McCORMICK,

Deceased,

and for a direction pursuant to SCPA §2215 for repayment
of excess distributions to an interested party, and for
recovery of estate assets due from Edmund J. McCormick,
Jr. and Bank Street Investment, Inc. d/b/a McCormick
Organization.

Index No. 3522/1988

**AFFIDAVIT OF
SERVICE**

In the Matter of the Petition of ALFRED S. HOWES for
Settlement of Account as Co-Executor of the Last Will
and Testament of

EDMUND J. McCORMICK,

Deceased.

STATE OF NEW YORK)

COUNTY OF NEW YORK)

BRENDAN HICKEY, being duly sworn, deposes and says:

1. I am over 18 years of age and am employed as a law clerk by Pillsbury Winthrop, LLP and am not a party to this action.
2. On Friday, August 9, 2002, I served the Co-Executor Bankers Trust Company's Post-EBT Discovery and Inspection Demand to Co-Executor Suzanne V. McCormick, dated 8/9/02, by prepaid, first-class mail, upon:

Phipps & Geis, P.A.
430 William Hilton Parkway
Suite 505
Hilton Head Island, SC 29926

Brief Justice Carmen Kesselman & Kleiman, LLP
805 Third Avenue
Suite 600
New York, NY 10022

Arnold & Porter
399 Park Avenue
New York, NY 10022-4690

McElroy, Deutsch & Mulvaney, LLP
Wall Street Plaza
88 Pine Street, 21st Floor
New York, NY 10005

White & Case LLP
1155 Avenue of the Americas
New York, NY 10036-2787

by delivering and leaving a true copy of same into the custody of a facility maintained by the United States Postal Service at One Battery Park Plaza, New York, New York, 10004-1490.

3. On Friday, August 9, 2002, I also served same upon

DOWD & MAROTTA LLC
277 Broadway, Suite 1310
New York, NY 10007

by delivering to and leaving a true copy of same with the receptionist at his office at the above-specified address.


BRENDAN HICKEY

Sworn to before me this
9th day of August, 2002


Notary Public

ROBERT T. WESTROM
Notary Public, State of New York
No. 01-WE4919195
Qualified in Richmond County
Certificate Filed in New York County
Commission Expires Feb. 28, 2006

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Corruption threatens "soul and fabric" of U.S. - FBI

Tue, Dec 8 2009

- * Corruption is country's "No. 1 criminal threat"
- * Senior FBI agent cites violations of ethics, integrity
- * Sees Tiger Woods case as tarnished ethics role model
- * Florida has seen leap in financial fraud over the year

By Pascal Fletcher

BOCA RATON, Fla., Dec 8 (Reuters) - Corruption, whether in the form of crooked officials, financial fraudsters or even philandering sports stars, is tearing at the fabric of U.S. society and is the country's No. 1 criminal threat, a senior FBI agent said on Tuesday.

Addressing businessmen in Florida, where financial fraud cases jumped by 42 percent in the last year, FBI Miami Division Special Agent in Charge John Gillies said failures in personal ethics and integrity sowed the initial poisonous seeds of corruption in a society.

Gillies said transgressions by high-profile public servants and even perceived social role models, like top golfer Tiger Woods, currently embroiled in allegations that he had extramarital affairs, sent the signal to young Americans that cheating and stealing were acceptable.

"Where do our children learn this? They see us, their elected officials, their sports stars, they see how they act and they figure, 'well it's OK,'" he said, citing the case of Woods, whose early morning car accident in Florida last month triggered a storm of media questioning of his clean-living reputation.

"Money can't buy everything," Gillies said in a speech to the West Boca Chamber of Commerce in Boca Raton, Florida.

The special agent, who manages high-profile cases in Florida, the Caribbean and Latin America, in no way suggested Woods had committed any criminal offenses.

Florida police issued Woods a ticket for careless driving last week and said no criminal charges would be filed. He quickly paid the \$164 fine, his lawyer said. Police also said no allegations of domestic violence were leveled.

Gillies, a 27-year veteran of the FBI, called corruption in all its multiple forms, whether in law enforcement or in the judicial system, or involving tax cheats and fraudsters, "our number one criminal threat" in the United States.

"It really gets at the soul and fabric of the United States when people are out there corrupting ... it all starts with simple ethics violations," Gillies said.

FOLLOW THE MONEY

He said public corruption investigations by the FBI were "huge" and had increased by more than 20 percent in the last five years, while financial scams -- from securities and hedge fund frauds to Ponzi schemes -- had jumped by more than 25 percent nationwide in the last year alone.

These cases involved hundreds of millions and even billions of dollars.

Florida in particular has been rocked by a number of high-profile Ponzi schemes this year, including fallout from the cases surrounding convicted Wall Street swindler Bernard Madoff and accused Texas financier Allen Stanford.

Gillies' FBI team last week arrested a flamboyant Fort Lauderdale attorney, Scott Rothstein, and charged him with bilking investors out of \$1.2 billion in a Ponzi scheme that funded his luxury lifestyle and political largess.

Rothstein, now disbarred, has pleaded not guilty.

Asked why the "Sunshine State" of Florida appeared to be so increasingly prone to financial scams, Gillies told Reuters the concentration of money in the wealthy Southeast state was "the number one" factor.

He said a high concentration of out-of-state Americans and foreigners was also a factor.

In his speech, Gillies also cited the economic recession as a contributing feature, as many victims were -- often blindly, often out of greed -- seeking to improve returns on money and investments in hard financial times.

He said offers of 15, 20, 25 percent returns in a recession should be an automatic "red flag" of possible fraud.

For those frustrated by diminished earnings eroded by the crisis the FBI veteran offered the following caveat against temptation: "The worst day at work is still better than the best day in jail." (Editing by Jim Loney and Howard Goller)

Exhibit 99

SAMUEL J. GILBERT
ATTORNEY AT LAW
280 NORTH CENTRAL AVENUE, SUITE 480
HARTSDALE, NEW YORK 10530
TELEPHONE (914) 946-6995
FACSIMILE (914) 946-0803

April 25, 2013

By Letter and Facsimile (212-858-1500)

David G. Keyko
Pillsbury Winthrop Shaw & Pittman, LLP
1540 Broadway
New York, NY 10036

Dear David:

Somehow, my name continues to appear on File 3522-1988 Service Lists-Surrogate's Court of State of New York, County of Westchester, and the Surrogate's Court of Dutchess County Courthouse, 10 Market Street, Poughkeepsie, NY 12601, which I assume arose from information provided by you. You know that in early January, any representation/contact/services to, with, or for, Suzanne McCormick ended.

Please have my name removed from any Service List or List of Representatives/Counsel and so advise the Court. You are the only one to do this. If they even know my name, it can only have been from you. I never appeared for, or wrote to anyone other than you (about) her.

Sincerely yours,

*me dictated but
not read*

Samuel J. Gilbert

cc: Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

Exhibit 100

SAMUEL J. GILBERT
ATTORNEY AT LAW

280 NORTH CENTRAL AVENUE, SUITE 480
HARTSDALE, NEW YORK 10530

WESTCHESTER NY 105

25 APR 2013 PM 5 L



Suzanne McCormick
231 Clinton Avenue
Dobbs Ferry, NY 10522

1052233003





STATE OF NEW YORK
BANKING DEPARTMENT
2 RECTOR STREET
NEW YORK, NY 10006

August 23, 1999

Mr. Martin Cirincione
Executive Director
Division of Parole
97 Central Avenue
Albany, New York 12206

Dear Mr. Cirincione:

This letter is in support of an application filed on behalf of Bankers Trust Company with the Division of Parole seeking relief from the provisions of Section 707 of the Surrogate's Court Procedures Act which prevents a convicted felon from serving as trustee and executor in estates and trusts domiciled in the State of New York. Relief from this constraint, which can be granted only by the Division of Parole through the issuance of a Certificate of Relief from Disability under Article 23 of the New York Corrections Law, would benefit the people of the State of New York in that estates and trusts would be free to benefit from the services of the trustee or executor of their choice. Currently, Bankers Trust Company acts as trustee for more than two thousand New York trusts with an aggregate value of over \$4 billion.

BACKGROUND

Bankers Trust Company was originally chartered by the State of New York in 1903. It is among the largest commercial banks in New York City and the United States, based on total assets. At December 31, 1998, it had total assets of \$111.3 billion. Bankers Trust Company originates loans and other forms of credit, accepts deposits, arranges financing and provides numerous other commercial banking and financial services. In addition, the trust company is one of the world's largest investment managers with more than \$320 billion in assets under management. It is also the fourth largest custodian in the world with \$2 trillion in assets in safekeeping. The trust company is currently named as executor in over four hundred wills.

Exhibit 101

INAPPROPRIATE CONDUCT

A division of Bankers Trust Company known as Client Processing Services, provides trust, custodial, administrative and agent bank functions to institutional and individual customers, in connection with securities transactions and the administration of employee benefit and pension plans. In its day to day operations, the trust company generates checks issued to customers which represent payment of dividends, interest or principal on securities and distributions from employee benefit and pension plans. These checks, for various reasons, remain uncashed from time to time. Other credits in the trust company's books and records are generated as a result of overpayment of moneys from customers relating to securities transactions. Any funds that remain unclaimed after appropriate research and return to their rightful owners, become as a matter of law, due and owing to various states.

During the interval from the beginning of 1993 through the end of 1995, a substantial amount of unclaimed funds were inappropriately converted to income and reserves of the trust company.

Upon the discovery of these improprieties, the trust company notified the New York State Banking Department and its federal bank regulator and also notified the United States Attorney for the Southern District of New York. Bankers Trust Company retained outside counsel and an independent certified public accounting firm to assist it in performing a comprehensive forensic and diagnostic review of the inappropriate activities during the relevant period. It initiated corrective action (detailed below) even before its regulators mandated such action.

THE PLEA AGREEMENT

On March 11, 1999, Bankers Trust Company announced that it had reached an agreement with the United States Attorney's Office in the Southern District of New York and with the New York State Banking Department to resolve the investigation concerning the inappropriate transfer of the unclaimed funds and the related recordkeeping problems. Bankers Trust Company pleaded guilty to misstating entries in its books and records and agreed to pay a \$60 million fine to the federal government and \$3.5 million to the State of New York.

A consequence of the plea agreement and the subsequent sentencing that occurred on July 26, 1999 is that Bankers Trust Company is ineligible to obtain fiduciary letters from the Surrogate's Court under Section 707 of the Surrogate's Court Procedures Act, jeopardizing its ability to serve as trustee and executor for trusts

and estates in the State of New York for which it promised to perform such services.

REMEDIAL ACTIONS

Based on the results of the trust company's internal review (referred to above under "INAPPROPRIATE CONDUCT"), and in consultation with the New York State Banking Department, remedial steps were taken as follows:

1. Improved policies and procedures were adopted that relate to:
 - Accounting practices
 - Risk management
 - Compliance and internal controls
 - Management information reporting

These policies and procedures manuals occupy nineteen feet of shelf space and are available for review at the Banking Department's office.

2. New training programs were adopted for personnel in the Client Processing Services division with respect to business practices and responsible decision making.
3. The trust company replaced and supplemented personnel in the Client Processing Services division, including the replacement of the head of the business group and the head of the areas specifically involved in the offending behavior.
4. The trust company created an independent risk management and control function that materially improves reporting of this business line to senior management.
5. Internal audit functions have been enhanced and the audit scope has been expanded. The size of the audit staff has also been increased.
6. The independent external audit was expanded to include a review of the improved policies and procedures referred to in item one above.

When Bankers Trust Company entered into the letter of commitment with the New York State Banking Department on March 11, 1999, and agreed to pay \$60 million to the federal government and \$3.5 million to New York State, it also agreed to maintain the improved policies, procedures and internal audit scope and frequency and to make no changes therein without the prior approval of the Superintendent of Banks. The trust company has also submitted periodic reports to the Department

4

on the substantial progress that it has made in returning funds to the owners or to the states and submitted a final plan of restitution which is acceptable to the Banking Department and to the United States Attorney's Office for the Southern District of New York.

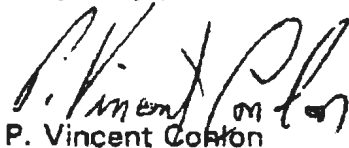
On June 4, 1999, Deutsche Bank, AG, Frankfurt, Germany acquired all of the outstanding shares of common stock of Bankers Trust Corporation pursuant to an agreement dated November 30, 1998. This change in control was approved by the New York State Banking Board on May 6, 1999. This change in control does not alter the obligations of Bankers Trust Company under the letter of commitment dated March 11, 1999.

It is the opinion of the New York State Banking Department that the current management of Bankers Trust Company has taken all steps necessary to prevent a reoccurrence of the inappropriate conduct that gave rise to the letter of commitment between the Department and Bankers Trust Company dated March 11, 1999. None of the individuals who participated in or who had knowledge of the conduct are currently employed in this business line. We will continue to monitor the activities of this company through periodic on-site examinations conducted by New York State bank examiners.

In conclusion, the Banking Department is not aware of any condition or circumstance that might be an impediment to the Division of Parole granting the necessary Certificate of Relief under Article 23 of the New York Correction Law.

If I can be of assistance to you or to the members of the Parole Board, please feel free to contact me at (212) 618-6625.

Very truly yours,



P. Vincent Cotton

Deputy Superintendent of Banks



WESTCHESTER COUNTY SURROGATE'S COURT

Jody B. Keltz
COURT ATTORNEY-REFEREE

140 Grand St.
White Plains, N.Y. 10601

Tel: (914) 995-6242
Fax: (914) 995-3728

Internet: JKELTZ@COURTS.STATE.NY.US

Exhibit 102



THE NEW YORK BULLETIN

New York Courts' Dastardly Deeds

The Departed: Resting in Peace or Spinning in Their Graves

By KEVIN McKEOWN

When 88-year-old Berta M. Murray died on August 12, 1997, she probably had not previously considered that the Scarsdale home built in 1928 by her father, and that had been in her family for decades, would soon be occupied by a New York State court-employed attorney who worked in the very same department charged with the duty to oversee the affairs of the deceased.

The fact that an insider, who was a state-employed attorney, had purchased Berta's home was secreted from surviving relatives; and they weren't too happy about the news. Though Berta has been gone for 15 years, questions remain as to exactly what happened with the transfer of the Murray real estate.

Westchester Surrogate's Court employee, attorney-referee Jody B. Keltz and her attorney-husband, Carl T. Peluso, of Peluso & Touger, in Manhattan, really liked that house at 168 Gaylor Road in Scarsdale, New York, so in they moved in the Spring of 1998. The two attorneys still call the 5 bedroom / 3 bathroom house, home.

Public documents, and interviews with Berta's relatives, provide a picture of how an insider came to own the deceased lady's house.

By all accounts, the Keltz-Peluso attorneys never knew Berta, and they had most likely never visited the elderly widow to their prior home located at 75 Third Place, in Brooklyn, New York.

"It's outrageous that a Surrogate's Court lawyer bought Berta's house," said an 80-plus-year-old cousin of Berta, who never knew that Ms. Keltz was a lawyer in the Westchester Surrogate's Court. "This stinks to high heaven, and I'm mad. It's just not right, I don't like this at all!" she

added.

Surrogate Court attorney Jody Keltz subsequently became involved in the Brookline Astor estate proceedings, an estate worth nearly \$200 million, and where the millions are still being divided.

Bad New York History Repeating Itself

The real estate deal by the Keltz-Peluso team is reminiscent of a Brooklyn Surrogate Court "arrangement" in 2002 where, the Village Voice described it as... "Judge Scholnick's clerk...snatched up the 11-room brownstone...of 85-year-old Elsie Perry...in a move that would make Donald Trump proud..." Honorably, Brooklyn Chief Court Clerk, George Crowley, refused to keep quiet, saying publicly that, "If I did this, I would expect to be fired. The whole thing was unethical...the judge shouldn't have allowed it..."

Brooklyn senior court official Crowley was so outraged by the cozy inside real estate deal that he took the highly unusual step of placing a note about it in the decedent's Brooklyn Surrogate's Court case file.

But in the Westchester Murray-Keltz-Peluso transfer, no such concern has ever been voiced or documented by the Surrogate's Court Chief Clerks John Kelly or Joseph Accetta, or more importantly by their bosses.

"Isn't a Surrogate Court supposed to make sure everything is on the up-and-up, and handled properly?" asked Berta's cousin, adding, "I knew Berta over seventy years, and everyone knew she wanted that house to stay in the family."

Berta's Deeds Enter the Volumes

A review of Berta Murray's estate file has an appearance that it is largely normal, according to legal experts engaged to analyze the Murray estate transactions,

and who are familiar with New York estate law, ethical obligations and the specific practices of the Westchester County Surrogate's Court.

However, they noted, the complete absence of any estate file "accounting" is quite unusual.

And though not required, the name of Surrogate's Court attorney-referee Jody B. Keltz is nowhere to be found in the estate file. A review of the property deed on file in the Westchester County Clerk's office, however, memorializes the transfer of ownership of 168 Gaylor Road in Scarsdale, New York, from the "Estate of Berta M. Murray...by The Bank of New York...to Carl T. Peluso and Jody B. Keltz, his wife."

In a telephone conversation, a court employee confirmed that Ms. Keltz was still employed as an attorney in the Surrogate's Court's law department.

When asked to comment about the Keltz property transfer, she advised that, "If you want to keep your job around here, you keep your mouth shut." When asked her name, the telephone connection ended.

An in-depth analysis, however, reveals some eyebrow-raising facts to experts, including that Berta's last will was substantially different than her stated wishes as expressed to friends and relatives since her husband Elmer died in December of 1982.

A nice "crumb," if you can get it Berta's estate file shows a relatively standard probate proceeding, but it is quickly observed that a bank, The Bank of New York, is the fiduciary. At the time of Berta's death, the house was valued at \$350,000.00, approximately one half of the total estate value of \$742,968.00. Now, according to the Village of Scarsdale Tax Office, 168 Gaylor Road is

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New Rochelle freshman Shanique Royce was named Hudson Valley Women's Athletic Conference tennis rookie of the week. Also, freshman cross country runner Tayler Fisher and senior volleyball player Elizabeth Johnston were name to the Hudson

Andres Romero.

Mercy College field hockey squad lost to Limestone 4 to 0. In more Mercy College news, the college recently unveiled its new athletic field, the Mavericks soccer, lacrosse, baseball and field hockey teams will use the

Sports in Ardsley starting October 7th.

The regular NFL referees have returned to work, so now I can sleep again at night... see you next time.

Mark Jeffers resides in Bedford Hills, New York, with his wife Sarah, and three daughters, Kate, Amanda, and Claire.

THE BULLETIN

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conservatively valued at \$900,000.00. "In Westchester, everyone gets a crumb," one estate lawyer noted. But those associated with the "new" wishes of Berta Murray EACH received "crumbs" worth tens of thousands of dollars:

1. Attorney W. Rowland Miller of the Judy, Miller & O'Connor law firm in Scarsdale, who drafted the Will for Berta, and in which The Bank of New York is named as the new fiduciary, and who was then retained as the attorney for the fiduciary, The Bank of New York;
2. Attorney Samuel S. Yasgur, then of the Hall Dickler LLP law firm, and who was appointed by former Hall Dickler lawyer and then Judge Emanuelli to represent "unknown heirs"; and
3. Real estate agent Camille Paradise of Claire D. Leone Real Estate, who lived in Berta's neighborhood, and who was the realtor that handled the sale of the house to court employee Keltz and her husband.

Conflict? What's a Conflict?

"Judges and attorneys have an obligation to avoid even the appearance of impropriety," observed one White Plains estate attorney who asked that his name be withheld, adding, "But that ethical requirement doesn't apply here; every player gets their piece of the pie, that's how court business is done in Westchester County." He conceded that, "On its face, this doesn't look good, a state-employed attorney, referee working in the Surrogate's Court shouldn't be purchasing a house from any estate her court is overseeing."

New York State Court employee Jody Keltz, according to state records, is still employed as an attorney for Westchester County Surrogate's Court. New York's Surrogate's Courts are charged with insuring a high level of integrity in the administration of estate proceedings, and holding professional fiduciaries, such as banks, to a high set of ethical and performance standards. Berta's estate hardly had an ethical

chance in the Empire State when you consider the estate of a Brooklyn gentleman, John Phillips.

Estate Corruption Targeted Retired New York Judge

Apparently, even the estates of retired, ailing New York judges are fair game for savage insiders who use a corrupted system to advance their desires; and especially if that estate is worth \$10 million.

Respected New York Judge John L. Phillips, became a ward of the court, and lived out his last days in an assisted living facility. His last days were controlled by corrupt insiders, and his property was "sold" at unpublicized auctions.

Judge Phillips, 83-years-old when he died in 2008, was known as the "Kung-Fu Judge", having earned the rank of 10th-degree black belt. But the judge would be no match for those controlling his wealth.

"I'm 6 feet 1," Judge Phillips once said. "I can kill you with my hands faster than you can believe, and I carry a gun. But I'm scared to walk the streets at night. How do you think black women feel?"

After one real estate purchase, his admired beliefs led him to rename the century-old Regent theatre in Brooklyn to The Slave Theater, "so that no one would ever forget our struggles."

When Judge Phillips finally died, a court-appointed attorney-guardian, who forgot to file estate tax returns, remembered to write himself checks for \$187,000.00. The lawyer, Emani P. Taylor, was ultimately ordered to payback \$403,000.00 to the Judge Phillips Estate, and her conduct was deemed "egregious" by Judge Michael A. Ambrosio.

Attorney Taylor has been suspended from the practice of law in New York State, and the social struggles voiced by Judge Phillips go on.

Those who knew Berta Murray are still waiting for some long-overdue justice in how her affairs are finally settled.

Learn more at www.TheNewYorkBulletin.com.



PILLSBURY WINTHROP

ONE BATTERY PARK PLAZA NEW YORK, NY 10604-1496 212.858.1000 F:212.858.1500

David G. Keyko, Esq.
212.858.1604
dkeyko@pillsburywinthrop.com

April 1, 2003

BY FACSIMILE AND REGULAR MAIL

Raymond R. Dowd, Esq.
Jason E. Bogli, Esq.
Dowd & Marotta LLC
277 Broadway, Suite 1310
New York, NY 10007

Re: Estate of Edmund J. McCormick

Gentlemen:

I am writing with respect to the Order to Show Cause captioned "In the Matter of the Application of Bankers Trust Company of New York (f.k.a. Deutsche Bank Trust Company) and Bankers Trust Company, Petitioners, for substitution of fiduciary relationships pursuant to New York Banking Law 154," which your firm filed on March 17, 2003 on behalf of Suzanne McCormick. As you know, the Order to Show Cause seeks an order vacating an alleged default by Mrs. McCormick and clarifying whether the Bank's 1999 motion to substitute Bankers Trust Company of New York as fiduciary in the place and stead of Bankers Trust Company affects the Estate of Edmund J. McCormick. For the reasons set forth below, we demand that you immediately dismiss this action with prejudice.¹

In 1999, the Bank commenced, by Petition verified on September 28 and 29, 1999, a proceeding (the "Proceeding") in the Supreme Court, New York County, to substitute Bankers Trust Company of New York in the place and stead of Bankers Trust Company as fiduciary in certain instances. The request was granted by Order of the Supreme Court

¹ The second order to show cause filed by your firm on March 17, 2003, captioned "Suzanne McCormick, as executor and beneficiary of the Will and Trust of the Estate of Edmund J. McCormick, Petitioner, against Bankers Trust Company et al.," seeking an order annulling the Certificate of Relief from Disabilities, also relies upon and recites the same inaccurate allegations discussed herein. We demand that you take appropriate action with respect to that proceeding as well. While we believe that motion also is infirm on a number of other grounds, we will address those grounds at a later time.

Exhibit 103



April 1, 2003

Page 2

dated February 24, 2000. Because the McCormick Estate was not affected by the Proceeding, Mrs. McCormick was not entitled to notice and did not default.

As the Guardian's Report cited in your papers correctly notes,² the Bank sought to substitute Bankers Trust Company of New York for Bankers Trust Company with respect to (i) such of Bankers Trust Company's existing fiduciary relationships as were identified in Exhibit B to the Petition (filed under seal); and (ii) each and every fiduciary relationship taking effect after the date of the hearing of the Petition. Because the Bank was appointed as co-executor of the McCormick Estate long before the Proceeding was commenced, the McCormick Estate would have had to have been specifically listed in Exhibit B to the Petition to be affected by the Proceeding and the Court's February 24, 2000 Order. It was not so listed. Indeed, both Exhibit B to the Petition and Exhibit 1 to the February 24, 2000 Order, which also was filed under seal, reflect that no substitution of Bankers Trust Company New York in place of Bankers Trust Company was sought or effected with respect to the McCormick Estate. Mrs. McCormick therefore was not given notice of the Proceeding.

Because no substitution was effected, the same corporate entity has continued as co-executor of the Estate. You undoubtedly must be aware of this based upon the filings in the McCormick Estate accounting proceeding. Effective April 15, 2002, the Office of Superintendent of Banks, State of New York Banking Department approved a change of name from Bankers Trust Company to Deutsche Bank Trust Company Americas. You must also be aware of this, as the name change has been reflected in numerous affidavits (including the one you attached to your order to show cause) and memoranda filed by the Bank in the accounting proceeding. Those filings consistently have identified the Bank as "Bankers Trust Company, now known as Deutsche Bank Trust Company Americas."

Given these facts, it is clear that the McCormick Estate was not affected by the Proceeding and thus has no basis or standing to challenge the February 24, 2000 Order substituting Bankers Trust Company of New York for Bankers Trust Company with respect to certain fiduciary relationships with which Mrs. McCormick has no connection. We therefore demand that the motion to vacate a default, unseal the record, and clarify the effect of the February 24, 2000 order be withdrawn with prejudice immediately.

² The Guardian's Report quoted in your supporting papers makes absolutely clear that there are two classes of fiduciary relationships affected by the Proceeding -- the first of which includes certain identified trusts and estates for which the Bank *previously had been appointed* as fiduciary and the second of which includes each and every fiduciary relationship that will take effect *in the future*. Your papers misleadingly highlight only a portion of the text in the Report in order to blur the distinction between these two classes and support your inaccurate conclusion that all trusts and estates were affected.



April 1, 2003

Page 3

In the event that your client elects to go forward with the pending motion, we will have no choice but to make a motion to dismiss and, in conjunction therewith, seek appropriate remedies (including sanctions) for your commencement and prosecution of frivolous litigation. I trust this will not be necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Keyko".

David G. Keyko

cc: Charles G. Berry, Esq.
David P. Geis, Esq.
Stephen E. Kesselman, Esq.
Robert F. Van Lierop, Esq.
Robert E. Tiedemann, Esq.

27 JAN 2006 10:22

January 18, 2006

David G. Keyko
Phone: 212.858.1604
david.keyko@pillsburylaw.com

The Honorable James D. Pagonis
Surrogate's Court
Dutchess County Courthouse
10 Market Street
Poughkeepsie, NY 12601

Re: Estate of Edmund J. McCormick (File No. 3522-1988)

Dear Surrogate Pagonis:

We represent Bankers Trust Company ("Bankers Trust"), now known as Deutsche Bank Trust Company Americas, in this matter with respect to the objections of Suzanne V. McCormick ("Mrs. McCormick") to Bankers Trust's and Herman Markowitz's Final Account of their proceedings as co-executors of the Estate of Edmund J. McCormick (the "Estate") for the period from November 27, 1988 through July 25, 1996. We write to bring to the Court's attention an apparent violation of this Court's order.

Before the above-referenced accounting proceeding was transferred to Your Honor, Surrogate Scarpino had, on December 6, 2001, so-ordered a certain Stipulation and Order (the "Stipulation") embodying the agreement by and among David McCormick, Ann Ritter, Dennis B. McCormick, Laurie McCormick, David Cook McCormick, Jason McCormick, Helen Leaver, Edmund J. McCormick, Jr., Alfred S. Howes, Herman Markowitz, Bankers Trust, White & Case, LLP, and Catenacci, Markowitz, Delandri, Rosner & Co.

By the Court's order, the Stipulation was filed under seal and the terms of the Stipulation were subject to a confidentiality order.

We have come across an article in the October/November 2005 issue of *Absolute* magazine which unfortunately reveals confidential terms of the Stipulation. (A copy of the article is enclosed.)

We note that the *Absolute* article cites only two sources, a spokesman for Bankers Trust and Mrs. McCormick herself. We understand that the Bankers Trust spokesman who spoke with the *Absolute* reporter did not disclose any details of the Stipulation; indeed, he was unfamiliar with the terms of the Stipulation. We have also reached out to Edmund J.

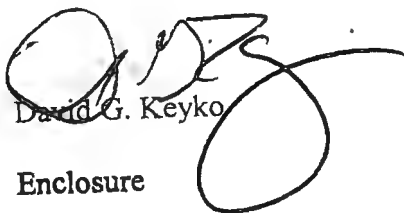
Exhibit 104

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The relatives who are parties to the settlement and were told that none of them spoke with the *Absolute* reporter. (We also attempted to reach the reporter, but she did not return our call.)

Although Bankers Trust's motion to provide Mrs. McCormick with a copy of the Stipulation subject to a confidentiality order (the "Confidentiality Motion") is still pending, we believe that Mrs. McCormick is familiar with the terms of the Stipulation. As noted in my Affidavit in support of the Confidentiality Motion, Mrs. McCormick's assistant Patrick Hanley saw a copy of the Stipulation prior to the time it was signed and approved.¹

Respectfully,


David G. Keyko

Enclosure

cc: Jason E. Bogli, Esq.
Robert Tiedemann, Esq.
Charles G. Berry, Esq.
Adria De Landri, Esq.
David P. Geis, Esq.
Brian J. Carey, Esq.

¹ The Confidentiality Motion, dated October 22, 2002, seeks an Order directing that: (i) Mrs. McCormick and any person advising, assisting, or representing her may be provided with a copy of the Stipulation; and (ii) the terms of the Stipulation shall be kept confidential by Mrs. McCormick and by her advisors, assistants, and representatives and shall not be disseminated to any other non-parties to the Stipulation.



PILLSBURY WINTHROP LLP

ONE BATTERY PARK PLAZA NEW YORK, NY 10004-1490 212.858.1000 F:212.858.1500

September 17, 2003

Anne C. Bederka, Esq.
212.858.1295

abederka@pillsburywinthrop.com

Raymond J. Dowd, Esq.
Dowd & Marotta LLC
277 Broadway, Suite 1310
New York, NY 10007David P. Geis, Esq.
Phipps & Geis
430 William Hilton Parkway
Suite 505
Hilton Head Island, SC 29926Re: Estate of Edmund J. McCormick

Dear Raymond and David:

In the course of a recent periodic review of New York's unclaimed funds database, Deutsche Bank has learned that the Office of the State Comptroller is holding an AT&T Corp. bond in the amount of \$4,127.60 which belongs to the Estate. (Earlier periodic reviews of the database did not reveal any assets listed under the name of Edmund J. McCormick.)

To collect the bond, the executors are required to execute the enclosed Estate Hold Harmless Form. Please arrange to have your respective clients fill out and sign the form where indicated, have the form notarized, and return the same to me for filing with the Office of Unclaimed Funds.

Once the funds are received, they will be deposited into the estate account.

Should you have any questions, please give me a call.

Sincerely,

Anne C. Bederka

Exhibit 105

cc: Charles G. Berry, Esq.
Adria de Landri, Esq.
Robert E. Tiedemann, Esq.



Bankers Trust Company

The Private Bank
280 Park Avenue, New York, New York 10017

William J. Wilkie
Managing Director
Telephone: 212-454-2325

Mailing Address:
P.O. Box 1990, Church Street Station
New York, New York 10008

February 13, 1996

Suzanne McCormick
VIA FAX #: 407/585-9007

Dear Mrs. McCormick:

I am in receipt, via fax, of your letter to me dated February 9th as well as a copy of your letter of February 12th to Henry Zarzicki. Since both letters essentially address the same issue, this is in response to both of your letters.

As the result of the exchange of properties when the various partnerships were dissolved, your husband's estate is now the sole owner of Cooper River Manor. At the time of his death, Mr. McCormick owned an 80% interest in the Cooper River Manor Partnership. As was its purpose, this partnership conducted the business by owning and operating the Cooper River Manor Apartments. However, recorded title to the real estate remained solely in the name of Edmund J. McCormick. Presumably the partners made a business decision not to change title. I say presumably because the executors had no role in this decision, which could have been for whatever reason they deemed appropriate at the time. Constructively, however, Cooper River Manor was owned by the partnership regardless of how title was recorded. This fact is clearly supported by the tax returns filed on behalf of the partnership. Further, the federal estate tax return, which reflected the ownership of the properties, were scrupulously audited by the IRS.

At the time of acquisition, the deeds that were received by the estate were not recorded either. In this case the executors elected not to record the deeds in order to conserve the cost of recording fees. However, when the mortgage was renegotiated, it then became necessary to address the issue of title.

As you requested, we are again furnishing you with copies of the unrecorded deeds. Please note that you are a signatory, and therefore we see absolutely no reason why Mr. Zarzicki should certify them as true copies.

Mike Philip's refusal to be tape recorded at one of your meetings, I believe was simply his personal preference. Certainly I see nothing unusual, sinister or improper about his decision. Further, your suggestion that Mike's manager, Jeff Osmun, had something to hide is totally without foundation or merit.

Exhibit 106

Suzanne McCormick
February 13, 1995
VIA FAX

I previously answered the questions about the partnerships and the ownership of the properties. Your husband entered into partnerships with Ed McCormick, Jr. and for years prior to his death partnership returns were filed reflecting these arrangements. Moreover, the ownership of the properties were properly reflected on the Estate's federal estate tax return.

Sincerely,



William J. Wilkie
Managing Director

cc: Without Enclosures
David McCormick
Edmund McCormick, Jr.
Herman Markowitz
Winthrop Rutherford, Jr., Esq.

P.S. The original of this letter and the enclosures will be sent to you today by express mail.

Enclosures



Department of the Treasury
Internal Revenue Service

P.O. Box 4772
GRAND CENTRAL STATION
NEW YORK, N.Y. 10163

Date:

2/4/98

SUZANNE MCCORMICK
231 CLINTON AVE
DOBBS FERRY, N.Y. 10522

Re: Your inquiry dated

Taxpayer identification number:

Tax period:

SUZANNE MCCORMICK

After checking all records available it seems that the only years filed for all Employees Identification numbers were for years ending December 31, 1989 and possibly January 31, 1990. Sorry for delay.

Signature

Bernard K. Lemph

Employee number

Title:

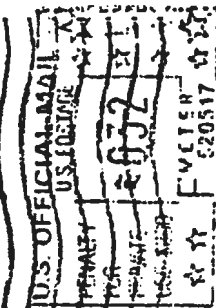
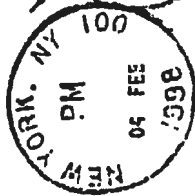
Taxpayer Service Specialist

Form 5200 (Rev. 6-89)

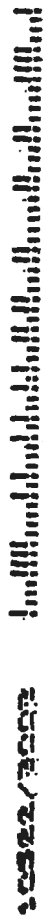
Exhibit 107

Internal Revenue Service
MANHATTAN DISTRICT
NEW YORK, N.Y. 10008

Official Business
Penalty for Private Use, \$300



Mrs. Suzanne McCormick
231 Clinton Ave.
Dobbs Ferry, N.Y. 10522



Internal Revenue Service

District
Director

Department of the Treasury

P.O. Box 3000, New York, NY 10008

Date: FEB - 3 1997

Mrs. Suzanne McCormick
123 West Evans Lane
Manalapan, Florida 33462

Dear Mrs. McCormick:

Pursuant to our previous letter, dated October 24, 1996 (copy enclosed), we have obtained the file for the Estate of Edmund McCormick from the Service Center.

In your letter of May 28, 1996 to Commissioner Richardson, you expressed a concern regarding two partnerships, Cooper River Manor and Troy Court. Specifically you wanted to know whether the estate paid taxes based on 80 % or 100 % of the appraised value. Upon the audit of the estate tax return, copies of the partnership agreements and income tax returns were reviewed. As a result of the audit, the 20 % interests in Cooper River Manor and Troy Court, which had been excluded from the gross estate on the initial return, were added back resulting in adjustments to the gross estate of \$330,214.77 and \$117,062.31, respectively. In the December 22, 1992 Report of Examination Changes which was sent to you with our previous correspondence, these items are listed on Form 886-A "Explanation of Items" as Schedule F Item 37 (Cooper River) and Item 43 (Troy Court).

If you would still like to review our file, we invite you to come to our office and inspect the file either in person or through your named representative. Enclosed please find Form 2848, Power of Attorney, should you wish to appoint a representative. A mutually convenient appointment may be made by contacting Estate Tax Attorney Harvey Weiss at (212) 436-1112. Please contact us by February 28, 1997. If we do not hear from you by that date, we will assume you no longer wish to review the file.

Sincerely yours,


Eugene D. Alexander
District Director

Enclosure

Exhibit 108

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
IN THE MATTER OF THE APPLICATION OF :
BANKERS TRUST COMPANY OF NEW YORK : INDEX NO: 99/121823
(f.k.a DEUTSCHE BANK TRUST COMPANY) and : PART 3
BANKERS TRUST COMPANY, : (COZIER, J)
:
Petitioners, :
:
For substitution of fiduciary :
relationships pursuant to New York :
Banking Law §154 :
-----X

REPORT OF THE GUARDIAN AD LITEM
WITH RESPECT TO PETITIONERS' APPLICATION

This report is submitted on behalf of Robert F. Van Lierop, Esq., the guardian ad litem appointed by this court (the "Guardian") to represent the interests of beneficiaries in trust who are entitled to notice of the above-referenced proceeding but whose whereabouts are unknown, and the interests of those persons who otherwise ought to have their interests represented. By Order entered by the Court on the record of this proceeding on December 17, 1999, the Court directed the Guardian to submit his Report concerning this matter on January 28, 2000. The Guardian has concluded, based upon his review of all the relevant facts and circumstances, and subject to the conditions set forth below, that Petitioners' application for the substitution of Bankers Trust Company of New York for Bankers

Exhibit 109

Dated: New York, New York
January 27, 1999

Jonathan D. Bassett

EXHIBIT D

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
WASHINGTON, D.C.

EUROPE.
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP
1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: (212) 819-8700

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
SINGAPORE
TOKYO

MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY
SAO PAULO

AFRICA
JOHANNESBURG

December 3, 1999

HAND DELIVERY

Jonathan D. Bassett, Esq.
Van Lierop, Burns & Bassett, LLP
320 Convent Avenue
New York, NY 10031-6331

Re: Application of Bankers Trust Company of New York
Index No. 99/121823

Dear Mr. Bassett:

Thank you for your letter of November 24. I enclose the following documents requested in your letter:

1. A written description of the process used to identify persons entitled to notice of the proceeding.
2. A detailed description of the available information regarding the "unknowns" listed in Exhibit C to the Petition and the steps taken to identify and contact the beneficiaries of those accounts.
3. Copy of Press Release dated March 11, 1999 issued by the office of the United States Attorney for the Southern District of New York, together with copies of the Information, the Plea Agreement and the Allocation.
4. Copy of the Exemption issued by the Department of Labor, as printed in the Federal Register for Monday, June 7, 1999.

As soon as the Stipulation regarding the release of documents which are covered by the Order for the sealing of Exhibits B, C and E has been signed by the Judge, we will send you copies of those documents.

On behalf of Bankers Trust, I can confirm the following, as requested in your letter:

Exhibit 110

EXHIBIT D

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

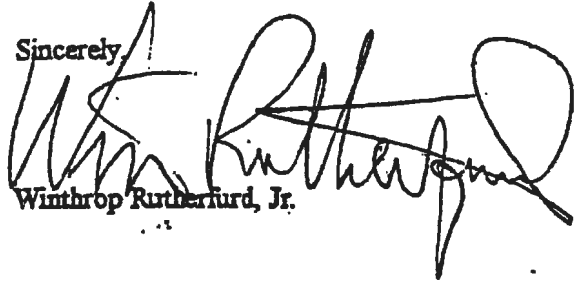
Jonathan D. Bassett, Esq.
Page 2

(a) The applicability of the safeguards agreed to in the criminal proceedings to the subject accounts would not be diminished by the granting of the Petition.

(b) The persons entitled to notice of this proceeding are not included within the definition of any proposed or certified class of plaintiffs in any pending or settled civil litigation against Bankers Trust related to the guilty plea.

(c) The accounts proposed to be transferred if the Petition is granted are not entitled to reimbursement or other compensation as a result of the guilty plea or any related agreement or undertaking by Bankers Trust.

Sincerely,



Winthrop Rutherford, Jr.

WR:jc

Enclosures

cc: Troland S. Link, Esq.
Philip H. Schaeffer, Esq.

EXHIBIT F

30360

Federal Register/Vol. 64, No. 108/Monday, June 7, 1999/Notices

Dated: May 28, 1999.
John H. King,
Deputy Assistant Administrator, Office of
Division Control, Drug Enforcement
Administration.
[FR Doc. 99-14236 Filed 6-4-99; 8:45 am]
BILLING CODE 4710-33-01

DEPARTMENT OF LABOR

Pension and Welfare Benefits
Administration

[Application No. D-10747]

Proposed Exemption; Bankers Trust
Company, BT Alex Brown
Incorporated, and Deutsche Bank AG

AGENCY: Pension and Welfare Benefits
Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Request

All interested persons are invited to submit written comments or request for a hearing on the pending exemption, within 33 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. D-10747. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 3 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing.

SUPPLEMENTARY INFORMATION: The proposed exemption was requested in an application filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for a complete statement of the facts and representations.

Bankers Trust Company, New York,
New York; BT Alex. Brown
Incorporated; Deutsche Bank AG
[Application No. D-10747]

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975 of the Code and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Bankers Trust Company

If the exemption is granted, Bankers Trust Company shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Exemption 84-14 (49 FR 9494, March 13, 1984) (PTE 84-14) for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company pled guilty on March 11, 1999 and ending five years¹ from the date of publication of the final exemption in the Federal Register, solely because of a

¹ If granted, this exemption will extend for a period of approximately five years. However, Bankers Trust Company may, prior to its expiration, apply for an extension of the exemption.

failure to satisfy section I(g) of PTE 84-14 as a result of the conviction of Bankers Trust Company for felonies described in the March 11, 1999 felony information (the Information) entered in the U.S. District Court for the Southern District of New York, provided that:

(a) this exemption is not applicable if Bankers Trust Company becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84-14; and

(b) this exemption is not applicable if Bankers Trust Company is convicted of any of the crimes described in section I(g) of PTE 84-14, other than those felonies discussed in the Information;

(c) the custody operations that were part of Bankers Trust Company at the time of the March 11, 1999 Information, and which have subsequently been reorganized as part of Global Institutional Services (GIS), are subject to an annual examination of its abandoned property and escheatment policies, procedures and practices by an independent public accounting firm. The examination required by this condition shall determine whether the written procedures adopted by Bankers Trust Company are properly designed to assure compliance with the requirements of ERISA. The annual examination shall specifically require a determination by the auditor as to whether the Bank has developed and adopted internal policies and procedures that achieve appropriate control objectives and shall include a test of a representative sample of transactions, fifty percent of which must involve ERISA covered plans, to determine operational compliance with such policies and procedures. The auditor shall issue a written report describing the steps performed by the auditor during the course of its examination. The report shall include the auditor's specific findings and recommendations. This requirement shall continue to be applicable to the custody operations that were part of Bankers Trust Company as of March 11, 1999, notwithstanding any subsequent reorganization of the custody operation function during the term of the exemption.

(d) With respect to the independent audit report described in section I(c) above:

(1) Bankers Trust Company shall provide notice to the Department of any instances of the Bank's noncompliance with the written policies and procedures reviewed by the auditor within 10 business days after such noncompliance is determined by the auditor notwithstanding the fact that the examination may not have been

completed as of that date. Upon request, the auditor shall provide the Department with all of the relevant workpapers reflecting the instances of noncompliance. The workpapers should identify whether and to what extent the assets of ERISA plans were involved in the instances of noncompliance, and

(2) Any information relating to the Bank's noncompliance with the written policies and procedures that is required by Federal and/or state banking authorities to be reported to the state and/or Federal banking agencies shall also be reported by Bankers Trust Company to the Department within the same time frames that such information is otherwise required to be reported to those agencies.

(c) The annual examination described in section I(c) above will be provided to the Department not later than 90 days following the 12 month period to which it relates, and will be unconditionally available for examination by any duly authorized employee or representative of the Department, Internal Revenue Service, Securities and Exchange Commission or Department of Justice or other relevant regulators and any fiduciary of a plan for which Bankers Trust Company performs services.

Section II

If the exemption is granted, BT Alex. Brown Incorporated and its subsidiaries and Deutsche Bank AG shall not be precluded from functioning as a "qualified professional asset manager" pursuant to PTE 84-14 for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company pled guilty on March 11, 1999 and ending ten years from the date of publication of the final exemption in the Federal Register, solely because of a failure to satisfy section I(g) of PTE 84-14 as a result of an affiliation with Bankers Trust Company, provided that:

(a) this exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84-14; and

(b) this exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG is convicted of any of the crimes described in section I(g) of PTE 84-14.

Section III. Definitions

(a) For purposes of this exemption, the term "Bankers Trust Company" includes Bankers Trust Company and any entity that was affiliated with Bankers Trust Company prior to the

date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, other than BT Alex. Brown Incorporated and its subsidiaries.

(b) For purposes of this exemption, "Deutsche Bank AG" includes Deutsche Bank AG and any entity that was affiliated with Deutsche Bank AG prior to the date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, and any future affiliates, other than Bankers Trust Company, as defined in subsection (a).

(c) The term "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and,

(4) Any employee or officer of the person who—

(A) is a highly compensated employee (as defined in section 4975(a)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person) or,

(B) has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Summary of Facts and Representations

1. Bankers Trust Company is a New York banking corporation and a commercial bank which provides a wide range of banking, fiduciary, recordkeeping, custodial, brokerage and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide. Bankers Trust Company is wholly owned by Bankers Trust Corporation, a bank holding company established in 1965 under the laws of the State of New York. As of December 31, 1997, Bankers Trust Corporation and its affiliates had consolidated assets of \$140,102,000,000 and total stockholders' equity of \$5,708,000,000.

2. The corporate entity known as BT Alex. Brown Incorporated resulted from the September 1, 1997 merger of Alex. Brown Incorporated with a Bankers Trust Corporation subsidiary (the new entity was renamed BT Alex. Brown & Sons Incorporated), Alex. Brown &

broker-dealer subsidiary of Alex. Brown Incorporated, was merged into BT Securities Corporation (the new entity was renamed BT Alex. Brown Incorporated). The merged broker-dealer, BT Alex. Brown Incorporated, is a wholly-owned subsidiary of Bankers Trust Corporation. Its predecessor, Alex. Brown & Sons Incorporated was not affiliated with Bankers Trust Corporation when the conduct which resulted in the Plea Agreement took place. BT Securities Corporation has never been a subsidiary of Bankers Trust Company.

3. In the second quarter of 1999, Bankers Trust Company expects that Bankers Trust Corporation will be acquired by Deutsche Bank AG, a bank organized under the laws of Germany.

4. On March 11, 1999, the United States Attorney for the Southern District of New York filed a three-count felony information (the "Information") in the United States District Court for the Southern District of New York (the "Court") alleging violations of 18 U.S.C. § 1005. The information charges Bankers Trust Company with making false entries on its books and records as a result of the conduct of certain employees in 1994-8 in Bankers Trust's processing services businesses. The conduct involved the transfer to reserve accounts and to income of aged credit items that should have been paid to customers or other third parties, or paid to state abandoned property authorities. Some of these aged credit items represented assets of ERISA covered employee benefit plans. On the same day, Bankers Trust Company entered a plea of guilty to the charges in the Information pursuant to a written plea agreement (the "Plea Agreement"). In the Plea Agreement, Bankers Trust Company agreed to pay a fine of \$60 million and placed that amount in escrow pending sentencing. The Plea Agreement provides that sentencing will be postponed to a date on or before June 21, 1999. Bankers Trust Company has cooperated with the appropriate authorities in the investigation.

5. Bankers Trust Company represents that although none of the unlawful conduct involved its (or its affiliates) investment management activities, the criminal conduct described above would preclude each component of Bankers Trust Company, BT Alex. Brown, Bankers Trust Australia Funds Limited, and other affiliated investment managers from serving as a "qualified professional asset manager" (QPAM) pursuant to PTE 84-14. PTE 84-14 provides broad relief from the prohibited transaction provisions of ERISA and the Code for transactions

between parties in interest with respect to a plan and an investment fund in which the plan has an interest when such fund is managed by a QPAM, the QPAM makes the decision to enter into the transaction, and the other conditions of the exemption are met. Section I(g) of PTE 84-14 precludes a person who otherwise qualifies as a QPAM from serving as a QPAM if such person or an affiliate² thereof has, within the ten years immediately preceding the transaction been either convicted or released from imprisonment, whichever is later, as a result of certain specified criminal activity.

6. Bankers Trust Company represents that the clientele it serves includes large employee benefit plans subject to the Act. They maintain that, given the size and number of the plans which Bankers Trust Company represents, the large number of financial service providers engaged by such plans, the breadth of the definition of party in interest under the Act, and the array of services offered by Bankers Trust Company, it would not be uncommon for a plan for which Bankers Trust Company currently serves as a QPAM to engage in a transaction which may involve a party in interest.

7. Bankers Trust Company states that other statutory and class exemptions exist which cover purchases and sales of securities from U.S. banks or broker-dealers; securities lending to U.S. banks or broker-dealers; mortgage pool investment trusts; investment in short-term instruments such as repurchase agreements (with a bank supervised by a State or by the United States or a broker-dealer registered under the Securities Exchange Act of 1934 or a dealer in government securities who reports daily to the Federal Reserve Bank of New York); bankers' acceptances in banks supervised by a State or by the United States, commercial paper or deposits of a bank supervised by a State or by the United States; Bankers Trust notes, however, that without the relief provided by PTE 84-14, a plan advised by Bankers Trust Company or its affiliates would be unable to invest in real estate, mortgages, or commodities, to engage in purchases and sales of securities from

and to foreign banks or broker-dealers, to lend securities to foreign banks and broker-dealers, or to invest in deposits of foreign banks, if such transactions involve a party in interest.

8. Bankers Trust Company requests an exemption to enable it and its current and future affiliates, to function as QPAMs despite their failure to satisfy section I(g) of PTE 84-14 as a result of the judgment of conviction to be entered against Bankers Trust Company.³ The proposed exemption is requested on behalf of Bankers Trust Company and its affiliates. The proposed exemption is also requested on behalf of such entities that may become affiliated with Bankers Trust Company or its corporate successor(s), including but not limited to Deutsche Bank AG and its affiliates. The transactions covered by the proposed exemption would include the full range of transactions that can be executed by investment managers who qualify as QPAMs pursuant to PTE 84-14 and satisfy the conditions contained therein. Deutsche Bank AG represents that, subsequent to the acquisition of Bankers Trust Corporation, it will assume responsibility on behalf of Bankers Trust Company for compliance with all of the conditions of the proposed exemption and all of the commitments contained in the Bankers Trust Company exemption application, notwithstanding any subsequent reorganization of Bankers Trust Company or Bankers Trust Corporation. Thus, for example, Deutsche Bank AG has agreed to ongoing responsibility for the annual examination of the custody operations that were part of Bankers Trust Company at the time of the March 11, 1999 information and for any reporting to the Department in connection with that examination.

9. According to Bankers Trust Company, the conduct relating to the Plea Agreement was discovered by the Bank itself and brought to the attention of the U.S. Attorney and the banking regulators. Bankers Trust Company, on its own initiative, engaged Arthur Andersen & Co., one of the largest independent accounting firms in the world, with substantial experience and expertise with banking and financial institutions, to undertake a review of the Client Processing Services unit, which has been now reorganized as part of

Global Institutional Services ("GIS"). Arthur Andersen spent over 100,000 hours on the investigation. Arthur Andersen identified transactions which had been recorded to income. These transactions have since been reversed. Bankers Trust has substantially completed the process of compensating any clients or third parties affected by these transactions or escheating unidentified funds to the appropriate state as abandoned property.

10. In addition, Bankers Trust Company represents that the law firm of Sullivan & Cromwell was engaged to aid in the investigation. The Senior Control Officer Group (SCOG)⁴ in consultation with Sullivan & Cromwell determined the individuals that would be evaluated for potential discipline. This determination was made as a result of a review of hundreds of thousands of e-mail messages and transaction records and interviews of dozens of Bankers Trust Company employees. SCOG and Sullivan and Cromwell met to discuss the issues raised by the interviews and documents for each employee and jointly reached a recommendation regarding the appropriate discipline for each employee.

11. Bankers Trust Company represents that by the end of the investigation, 13 employees who were in various ways related to the events that were the subject of the information had resigned and 27 other employees received other forms of disciplinary action. None of the individuals responsible for the action upon which the information is based are currently employed by Bankers Trust Company. In addition to asking employees to resign, the disciplinary actions taken were, reassignment out of the fiduciary business, compensation penalties, reprimand or mandatory retraining. Bankers Trust Company determined the level of discipline that was appropriate based on the following criteria: the employee's position during the relevant conduct; the employee's relevant educational and professional background; the employee's degree of involvement with the transaction, and the nature of the transaction. Bankers Trust Company believes that it has identified and considered all individuals who should have been disciplined in this matter.

Bankers Trust Company represents that it has undertaken to appropriately identify and discipline all individuals involved in the conduct which gave rise

² For purposes of section I(g) of PTE 84-14, an "affiliate" of a person is defined, in relevant part, as "any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person . . ." (PTE 84-14, section V(d)). Bankers Trust Corporation, Bankers Trust Company, its sister companies, and its subsidiaries would be treated as affiliates under this definition. Deutsche Bank AG, and its affiliates, will be treated as affiliates under this definition as of the effective date of its acquisition of Bankers Trust Corporation, the parent of Bankers Trust Company.

³ Section I(g) provides that for purposes of that subsection, "a person shall be deemed to have been 'convicted' from the date of the judgement of the trial court, regardless of whether that judgement remains under appeal." Until an appealable order is entered, there is no judgement of conviction under section I(g). Bankers Trust represents that an appealable order will be entered at sentencing, which is scheduled for June 21, 1999.

⁴ Bankers Trust Company states that SCOG is comprised of individuals who operate completely independent of any business line, including CFS, and had no involvement with the transactions under investigation.

to the guilty plea by Bankers Trust Company, and similar conduct not covered by the plea, all of which was investigated by Bankers Trust Company in 1996 and 1997. This conduct was found by Bankers Trust Company to involve taking unclaimed funds into income of Bankers Trust Company without adequate documentation that such funds belonged to Bankers Trust Company, as well as other accounting practices designed to misstate revenue or expenses of Bankers Trust Company for a particular time period. In addition to steps already taken, Bankers Trust Company agrees that it will, upon request of the Pension and Welfare Benefits Administration (PWBA), appoint and compensate a Special Master acceptable to PWBA to review the behavior of those individuals (and any discipline which has already been imposed on them) who remain at the Bankers Trust Company (its successors or assigns), when the proceeding by the Special Master commences who fall into any of the following categories:

(1) Persons with respect to whom a presentation was made to a disciplinary review committee of Bankers Trust Company based on any allegation that an individual was, directly or indirectly, involved in claiming funds for Bankers Trust Company without adequate documentation that such funds belonged to Bankers Trust Company;

(2) Persons selected by PWBA who were involved, directly or indirectly, in any of the above described misconduct, whether or not specifically investigated by Bankers Trust Company;

(3) Persons selected by PWBA who were involved in conducting, implementing, supervising, or overseeing the investigative and disciplinary process on behalf of Bankers Trust Company designed: (a) to assure that all improper accounting was appropriately corrected; and (b) to discipline individuals involved in claiming funds for Bankers Trust Company without adequate documentation that such funds belonged to Bankers Trust Company or misstating income or expenses of Bankers Trust Company; and

(4) Persons selected by PWBA who were involved in responding to inquiries from any governmental agency regarding allegations that Bankers Trust Company claimed funds without adequate documentation that such funds belonged to Bankers Trust Company, failed to appropriately escheat abandoned funds, or misstated income or expenses of Bankers Trust Company.

If a Special Master is requested by PWBA, the Bankers Trust Company will

submit to PWBA for its approval a proposed engagement letter relating to the scope of the review which shall include, at a minimum, the following requirements:

(a) The Special Master shall determine conclusively on behalf of Bankers Trust Company, what discipline for each such individual would be appropriate, up to and including dismissal to assure that their discipline was adequate to deter future misconduct by the individual and others in similar positions, and to assure that no such individual, found by the Special Master to be untrustworthy, would be involved, directly or indirectly, in handling assets subject to the Employee Retirement Income Security Act;

(b) The Special Master shall report to PWBA regarding any information that comes to the attention of the Special Master, in the course of performing his other duties, which suggests that the continued presence of any person as an employee or contractor of Bankers Trust Company might imperil the safekeeping or appropriate investment of employee benefit plan assets covered by the Act, or any other such information which the Special Master, in his discretion, believes would be useful to PWBA in performing its mission;

(c) The Special Master shall, in addition, provide to PWBA, upon request, any materials submitted by or on behalf of Bankers Trust Company to the Special Master or by the Special Master to Bankers Trust Company;

(d) To the extent permitted by law, Bankers Trust Company shall provide the Special Master with all documents concerning the behavior of such individuals as the Special Master, in his sole discretion, shall deem relevant, and shall require all employees and contractors to respond fully and completely to all inquiries by the Special Master as a condition of their employment by Bankers Trust Company;

(e) Bankers Trust Company further will promptly impose any discipline found appropriate by the Special Master; and

(f) The Special Master will use best efforts to complete his assignment within a specified period of time, but his failure to do so may not be grounds for dismissal or failure by Bankers Trust Company to honor all terms of the engagement letter, unless PWBA agrees in writing to such dismissal or failure to comply. Bankers Trust Company further agrees that any individual who has resigned, been dismissed, or transferred following involvement in claiming funds for Bankers Trust Company

without adequate documentation that such funds belonged to Bankers Trust Company or misstating income or expenses of Bankers Trust Company, so that they are not presently involved in the handling of ERISA covered employee benefit plan assets on behalf of Bankers Trust Company, will not in the future be permitted by Bankers Trust Company to handle such assets on its behalf as an employee or contractor. Similarly, Bankers Trust Company agrees that any individual who was disciplined in connection with the conduct described above, but who was not, at the time of their discipline, involved in handling employee benefit plan assets subject to the Act, will not in the future be permitted to handle such assets on behalf of Bankers Trust Company. Notwithstanding the agreements in this paragraph, Bankers Trust Company may, within 60 days of retaining the Special Master, with notice to PWBA, request that the Special Master review the conduct of any individual whose involvement with employee benefit plan assets is proscribed by this paragraph. Upon request for such review, the Special Master shall determine whether the limitations imposed by this paragraph should be modified, using the same standards which he would use in determining appropriate discipline for an individual described in numbered paragraphs (1)-(4). In performing this duty, the Special Master shall be given the same cooperation as he would receive in reviewing the discipline of an individual described in numbered paragraphs (1)-(4).

12. Bankers Trust Company further represents that substantial training has been provided to 2000 employees thus far. The training is in the process of being provided to the remainder of GIS employees and will be given monthly thereafter for new employees. As part of its enhanced process to establish and maintain a proper control environment, Bankers Trust represents that it developed a training plan to ensure that employees are aware of the important responsibilities for the proper handling of client funds. The "Business Practices" course was developed with Arthur Andersen and taught jointly with them. The full day's course presents the legal and regulatory issues and responsible business practices for everyday operations, including fiduciary requirements of ERISA and the appropriate method for dealing with suspected misconduct.

13. Bankers Trust Company represents that various corrective measures have been taken by it to help ensure that conduct such as that

involved in the Plea Agreement will not recur. New controls have been implemented, and a risk management infrastructure has been developed with risk managers assigned to each business area reporting directly to the Corporate Controller.

14. Arthur Andersen provided recommendations to the Bank for its consideration in augmenting the controls applicable to its processing business. In the area of organization, Arthur Andersen recommended that controllers for each product line in GIS report to a corporate controller, who reports directly to the Chief Financial Officer of the Bank. In Arthur Andersen's view, segregation of the accounting control function from operations is paramount to a strong control environment. Bankers Trust Company agreed, creating controllers for each business in GIS, who report to the CFO.

15. Arthur Andersen also recommended that the Bank adopt a centralized escheatment process. In response to this recommendation, a separate unit of Arthur Andersen with expertise in abandoned property was engaged to assist in assessing the existing control processes affecting abandoned property and escheatment. Bankers Trust Company represents that as a result of this assessment, controls over aged credit items and escheatment procedures have been enhanced. Specifically, Bankers Trust Company has created an Abandoned Property Officer, who is responsible for the Bank's escheatment filings. The Abandoned Property Officer coordinates with the Legal and Compliance Department of the Bank to provide guidance to the business lines and to provide clear guidelines for administering the escheatment process. Arthur Andersen also recommended that each business unit assign an individual to be responsible for the escheatment process in their respective areas and detail their responsibilities and reporting lines with formal procedures established for escheating aged items. Arthur Andersen further recommended that enhanced standards be established for documenting escheated items and that managers and operations employees be trained on internal policy and procedures. Finally, in the area of organization, Arthur Andersen recommended that procedures providing for proper accounting and disposition of credits be established and that training be provided in the accounting for those items. Bankers Trust Company represents that it has created an entire manual on escheatment policies and

procedures, and all employees responsible for making decisions on accounting and escheatment have been trained in these procedures and will continue to be trained periodically in these areas.

16. In the area of internal audit, Arthur Andersen recommended that audit procedures be revised to ensure that aged items will be formally tracked and followed until any of the issues concerning the items are resolved properly. Arthur Andersen recommended that internal audit employees be formally trained regarding escheatment laws and regulations and that internal audit personnel focus on the operational controls and proper procedures relating to abandoned property. Bankers Trust Company represents that it has created new audit procedures for internal audit staff in these areas. Internal audit staff have received Certified Trust Audit training from an outside organization and will be trained in Bankers Trust Company's abandoned property procedures.

17. In the area of in-house legal services, Arthur Andersen recommended that there be a corporate policy for the escheatment of abandoned property which is approved by business operations, corporate controllers and the Legal Department before adoption, with procedures to provide clear guidance on referral of issues to the Legal Department respecting proper treatment and escheatment of aged items. Since these recommendations were made, an official "Abandoned Property Policy" has been adopted, and procedures have been developed on escheatment which focus on proper referrals to the Legal Department.

18. Arthur Andersen also made recommendations regarding the function of the controllers group, including the development of a reporting mechanism for the aging of debits and credits; the prompt return of property to the rightful owners, once identified; and the development of more formal procedures for researching debits and credits. Bankers Trust Company represents that management information systems have been developed in response to these recommendations, which allow both the controllers and the business line operations management to track the research and identification of debits and credits and evaluate the process in terms of age, size and other relevant factors. Also in the controllers' area, Arthur Andersen recommended that the level of suspense items be reduced and procedures developed to research outstanding items. In this connection, Arthur Andersen recommended that the Bank

improve its tracking and promptness of reconciling items, with better descriptions of such items and clear responsibility for reconciling these items. In response to this recommendation, Bankers Trust Company represents that it has significantly upgraded the level and review of operational control indicators. Specifically, key control indicators have been defined and developed across all business areas. Monthly control management information systems (MIS) packages have been developed in each business unit which are reviewed at a monthly control meeting chaired by the GIS Business head and attended by business unit heads, controllers, compliance and legal personnel and internal audit staff.

19. With respect to ERISA plans, Arthur Andersen recommended that procedures and policies be developed concerning checks paid to plan participants that have not been cashed by the participant and that an independent group, such as compliance, be established to monitor all customer complaints on a centralized basis, with a follow-up audit to determine whether various aspects of client agreements in connection with billing, return of excess funds, etc. are being complied with. Bankers Trust Company represents that it has instituted policies to insure that assets belonging to employee benefit plans do not reach the point of being treated as abandoned property to be escheated. In this connection, Bankers Trust Company has promulgated policies and procedures for the Retirement Services Group within GIS which, among other things, require that plan sponsors receive a monthly list of uncashed checks older than 45 days; that plan sponsors are reminded that it is the plan sponsor's obligation and responsibility to find missing participants, and that plan sponsors are specifically requested to provide directions on amounts outstanding for more than one year. Check ledgers and class action records are retained by the Bank for 15 years. Plans which terminate their relationship with Bankers Trust Company will have any amounts still outstanding after six months forwarded to their successor trustees. With respect to terminated plans, Bankers Trust Company will forward any amounts still outstanding after six months to the responsible plan fiduciary. In addition, Bankers Trust Company represents that it has established policies which require complaints to be brought to the attention of a supervisor immediately and tracked in an MIS system so that

management can evaluate the aging and resolution of complaints. The policies further require that, if not resolved promptly, the complaint must be elevated to a more senior manager, or to Compliance and the Legal Department if the issue is out of the ordinary course of daily operations.

20. In the area of ownership and accountability of customer accounts, Arthur Andersen recommended that each business area develop a chart of accounts, identifying the responsible officer, the proof schedule, approval levels for account openings, closings and changes, with procedures for maintenance of proper documentation for customer and beneficiary amounts and controls on unclaimed amounts. Bankers Trust Company represents that it has undergone a comprehensive account review. Over 25,000 general ledger accounts have been closed, and new procedures and control reports were developed to identify inactive, obsolete and erroneous accounts. In addition, a chart of accounts was established through the use of a centralized account database. All accounts have clear ownership, purpose, and account descriptions. With respect to each account, an administrator is responsible for verifying on a monthly basis that the account is being used according to its official purpose, is being reconciled on a regular basis and is still active. On a going-forward basis, senior management receives regular MIS reports regarding account activity. In addition, Bankers Trust Company represents that procedures are in place to close inactive or dormant accounts on a regular basis.

21. Arthur Andersen recommended better procedures for handling class actions and tax refunds, and Bankers Trust Company represents that it is enhancing its current policies to establish additional procedures for preservation of the names of beneficial holders of securities that may result in class action payments, both for existing plans and for terminated plan relationships. In addition, Bankers Trust Company has revised its procedures to maintain canceled check reports and ledgers for 15 years. Bankers Trust Company further represents that escheatment records are kept indefinitely.

22. In addition to the review conducted by Arthur Andersen, Bankers Trust Company engaged KPMG, an international accounting firm, who are the Bank's auditors, to perform an independent risk assessment and controls review across GIS. Bankers Trust Company represents that this review had several objectives: (1) to

provide an examination of the various control enhancement initiatives that were underway (e.g. account usage); (2) to provide an assessment of the risk identification and control mechanisms across GIS business with, as necessary, control improvement recommendations; and to evaluate the control environment and risk management strategies including recommendations on risk management, legal and compliance structure.

23. Following this review, several control improvements were recommended throughout the various business units. Bankers Trust Company represents that detailed plans were established to implement the improvements with critical/mandatory improvements implemented by year-end 1998. In addition, recommendations to establish a GIS risk management function were implemented by the appointment of a GIS risk manager. In order to provide for an ongoing self-assessment of the control environment, Bankers Trust Company notes that a GIS-wide risk database was created. This database houses all key GIS operational processes and control points and is maintained and updated by the business unit risk managers as operational processes and control points are altered or changed.

24. KPMG has confirmed that based on its involvement over the past two years with respect to the GIS business, Bankers Trust Company has implemented policies and procedures to address the mandatory gaps identified in the risk assessment review performed by KPMG, as well as the recommendations made by Arthur Andersen at the conclusion of their forensic investigation. KPMG also represents that Bankers Trust Company continues to make substantial progress working toward a "best practices" control environment and that progress regarding remaining control enhancement initiatives continues to be closely monitored at the monthly control review meetings conducted since October, 1997 which all senior management in the GIS business.

25. Bankers Trust Company is subject to the continuing supervision of both the New York State Banking Department and the Federal Reserve Bank of New York. The Federal Reserve Bank of New York (FRBNY) and the New York Banking Department conduct joint annual examinations of the Bank, including its fiduciary operations. As part of its supervision, the New York State Department of Banking entered into a settlement agreement with Bankers Trust Company, pursuant to which Bankers Trust Company agreed to

pay \$3.5 million to the State of New York. It reached this agreement based on the fact that Bankers Trust Company had retained outside counsel and an independent accounting firm to assist the Bank in performing a comprehensive forensic and diagnostic review of the activities of its custody and processing businesses during the relevant period and based on that review, had taken the following remedial steps: (1) the Bank adopted improved policies and procedures relating to accounting practices, risk assessment, compliance and internal control procedures, and management information reporting; (2) the Bank adopted new training programs for its personnel in this area with respect to business practices and responsible decision making; (3) the Bank replaced and supplemented personnel in this area, including the replacement of the head of the business group and the head of the areas specifically involved in the offending behavior; (4) the Bank created an independent risk management and control function that reports outside the business line to the senior management in charge of corporate risk management and control; (5) the Bank enhanced its internal audit functions including expansion of the audit scope and increasing the size of the audit staff; (6) the annual external audit of the business was extended to include a review of the improved policies and procedures detailed in paragraph one above; and (7) the Bank commenced and substantially completed appropriate restitution of the amounts involved. In addition to the payment to the State of New York, Bankers Trust Company committed to maintaining the new policies, procedures and internal audit scope and frequency described above and to make no material changes therein without the prior approval of the New York State Banking Superintendent and to provide such periodic reports to the Superintendent and to the Bank's Board of Directors as they may request regarding compliance with the new policies and procedures. The New York State Banking Department concluded, in a letter dated March 11, 1999 to Frank Newman, Chairman of Board of Bankers Trust Company, that based on the actions taken by the Bank to date, "Bankers Trust has put into place the appropriate controls with respect to the management of the affected businesses".

26. The Federal Reserve Bank of New York also provided information in a written submission to assist the Department in its review of Bankers Trust Company exemption application. The FRBNY has a statutory obligation to

inspect the books and records of Bankers Trust Company and monitor its internal controls to ensure that adequate policies and procedures are in place with respect to fiduciary obligations. See 12 U.S.C. 248(a), 325 and 1831m. The FRBNY carries out its responsibility to examine Bankers Trust Company pursuant to delegated authority from the Board, and shall continue to do so. Under the Plea Agreement entered in the matter of *United States v. Bankers Trust Company*, 99 Cr. 250 (S.D.N.Y. Mar 11, 1999), the Bank has submitted to the FRBNY for review and approval "the written internal compliance procedures which the Bank has already implemented for the strengthening and maintenance of its records, systems and internal audit and controls, in order to ensure that such misconduct will not recur in the future."

27. As a condition of the proposed exemption, Bankers Trust Company has agreed to an annual examination of its custody operations as it relates to abandoned property and escheatment matters. The examination is to be undertaken by an independent public accounting firm² and will be designed to assist in determining whether the written procedures adopted by the Bank are properly designed to assure compliance with the requirements of ERISA. The examination will specifically require a determination by the auditor as to whether or not the Bank has developed adequate internal policies and procedures relating to abandoned property and escheatment matters and would include a test of a representative sample of transactions to determine operational compliance with such policies and procedures, with a written report describing the steps performed by the auditor during the course of its examination and the auditor's specific findings and recommendations. The auditor's report will be delivered to the Department within 90 days of the close of the 12 month period to which it relates and will be unconditionally available to other government regulators and the plan fiduciaries upon request.³ KPMG,

² In the Department's view, whether an auditor is independent for purposes of the proposed exemption would depend on the particular facts and circumstances of each case. However, the Department would not view an auditor as independent under circumstances where the auditor has a financial interest, including an ownership interest, in Bankers Trust Company or Deutsche Bank, or any affiliates thereof, or otherwise receives more than a de minimis amount of its compensation from any of those persons.

³ Bankers Trust Company represents that because its future affiliation will have had no affiliation with Bankers Trust Company during the period that the conduct that was the subject of the Plea Agreement

an international accounting firm, who is the Bank's auditor, or other successor independent auditors, will perform this annual audit.

28. Bankers Trust Company asserts that failure to grant the requested exemption will prohibit employee benefit plans for which Bankers Trust Company affiliates act as investment managers from engaging in transactions with parties in interest that would otherwise be permitted under PTE 84-14, and will cause the plans to forego attractive investment opportunities. Bankers Trust Company notes that many of its current and future affiliates, as well as the Bank itself, would be deprived of their abilities to offer and render the full panoply of specialized investment advisory services demanded by employee benefit plans covered by the Act. Bankers Trust Company represents that the conduct referenced in the Plea Agreement did not involve the investment management functions of the Bank or its investment management affiliates. Bankers Trust Company further represents that sufficient changes have been made in the Bank's custody and processing business management, procedures and supervision to prevent in the future the conduct which gave rise to the Plea Agreement, supporting the inclusion of Bankers Trust Company as an entity permitted to function as a QPAM.

29. In summary, Bankers Trust Company represents that the proposed exemption satisfies the criteria of section 408(a) of the Act for the following reasons: (A) Bankers Trust Company has undertaken substantial reforms and adopted procedures designed to prevent any recurrence of the criminal activity and escheatment of ERISA funds; (B) an independent audit requirement will further protect plans and help assure plan participants that the conduct that was the subject of the Plea Agreement will not recur; (C) instances of noncompliance discovered during the audit will be reported by Bankers Trust Corporation to the Department within ten days of determination by the independent auditor; (D) the investment management units that oversee the transactions covered by QPAM were not the subject of the Plea Agreement and (E) the other conditions of PTE 84-14, combined with the procedures adopted by Bankers Trust Company, afford ample protection

took place, the audit will focus solely on the operations that are currently part of the custody operations of Bankers Trust Company. Similarly, Alex. Brown Incorporated was not affiliated with Bankers Trust Corporation when the conduct identified in the Plea Agreement occurred and thus will not be subject to the annual audit examination.

of the interests of participants and beneficiaries of employee benefit plans.

Section 411 Proceeding

The Department notes that, as a result of Bankers Trust Company's conviction for violating 18 U.S.C. § 1005, the Pension and Welfare Benefits Administration's (PWBA) Office of Enforcement has undertaken an inquiry to determine whether, pursuant to ERISA § 411(a), 29 U.S.C. § 1111(a), a judicial proceeding should be instituted to bar Bankers Trust Company from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or from acting as a consultant to any employee benefit plan. Information obtained in this inquiry will not be used by the Department in its consideration of Bankers Trust Company's exemption request unless the Director of the Office of Enforcement submits such information, or any portion thereof, in writing, to PWBA's Office of Exemption Determinations for inclusion in the public record. Neither the Department's consideration of Bankers Trust Company's exemption request nor any final decision on such request shall foreclose completion of the Department's ERISA § 411 inquiry nor preclude any proceeding which may result therefrom seeking to bar Bankers Trust Company from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or from acting as a consultant to any employee benefit plan.

Notice to Interested Persons

With respect to notification of interested persons, the applicant will distribute this notice of proposed exemption by first class mail to an independent plan fiduciary for all ERISA pension plans for which Bankers Trust Company and its subsidiaries provide fiduciary services, including trustee services and/or the provision of investment advice and the owner of all IRA accounts to which Bankers Trust Company and its subsidiaries provide investment advisory services. The applicant will distribute the notice to all participants in its own ERISA pension plans, either by return receipt-electronic mail or by first class mail. All notification will be mailed or electronically mailed within three business days after publication of the proposed exemption in the Federal Register. The applicant will also use its best efforts to notify an independent fiduciary for each former ERISA pension plan client of Bankers Trust Company

and its subsidiaries that has received or may receive additional funds stemming from either the CPS inquiry or the Bank's additional efforts to find participants with uncashed benefit checks.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams LaVigne or James S. Frazier of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 2nd day of June, 1999.

Ivan Strasfeld,
Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.

[FR Doc. 99-14389 Filed 6-4-99; 8:45 am]
BILLING CODE 4810-33-P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on June 12, 1999. The meeting will begin at 1:00 p.m. and continue until conclusion of the Board's agenda.

LOCATION: The Westin Hotel, 1672 Lawrence Street, Denver, CO 80202-2010.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR § 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Public Speakers:
 - a. Hon. Gregory J. Hobbes, Associate Justice, Supreme Court of Colorado
 - b. Bennett S. Aisenberg, President of The Colorado Bar Association
3. Approval of minutes of the Board's meeting of February 22, 1999.
4. Approval of minutes of the executive session of the Board's meeting of February 22, 1999.
5. Approval of minutes of the Board's meeting of April 17, 1999.
6. Approval of minutes of the executive session of the Board's meeting of April 17, 1999.
7. Chairman's Report.
8. Members' Report.
9. President's Report.
10. Inspector General's Report.
11. Consider and act on the Board's meeting schedule, including designation of locations, for year 2000.

12. Consider and act on the report of the Board's Operations and Regulations Committee.

- Consider and act on the Committee's recommendation regarding proposed final rule, 45 CFR Part 1641, Debarment, Suspension and Removal of Recipient Auditors.
 - Consider and act on the Committee's recommendation regarding final rule, 45 CFR Part 1628, Recipient Fund Balances.
 - Consider and act on the Committee's recommendation regarding proposed amendment(s) to the Corporation's 403(b) Thrift Plan that are intended to increase the Corporation's employer contribution level to match the Civil Service Retirement System.
13. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
 14. Report on the status of the work of the special panel established to study and report to the board on issues relating to LSC grantees' representation of legal alien workers and the requirement that they be "present in the United States."
 15. Appointment of Acting Vice President of Programs.
 16. Consider and act on proposed resolution adopting new corporate logo for LSC's 25th anniversary.

Closed Session

16. Briefing¹ by the Inspector General on the activities of the OIG.
17. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.

Open Session

18. Consider and act on other business.
19. Public Comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336-8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336-8810.

¹ Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(4)(2) and (b). See also 45 C.F.R. § 1622.2 & 1622.3.

EXHIBIT G

MIAMI
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PALO ALTO
WASHINGTON, D.C.

EUROPE
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

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JOHANNESBURG

FACSIMILE TRANSMISSION

Date:	December 15, 1999	No. of Pages (including cover):	5
To:	Robert F. Van Lierop, Esq. Jonathan D. Bassett, Esq.	Fax Number:	(212) 491-4949
		Cabled Number:	(212) 491-8000
From:	David G. Hille	Reference No.:	1111779-0922
Re:	Application of Bankers Trust Company and Bankers Trust Company of New York for Fiduciary Substitution Under NYBL § 154		

PLEASE NOTE: The information contained in this facsimile message is privileged and confidential, and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or if any problems occur with transmission, please contact sender at call (212) 818-7523. Thank you.

Gentlemen:

Attached is the final ERISA exemption as we discussed.

Best regards,

David Hille

Exhibit 112

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$22,791.

Description: Requires mine operators to report to MSHA quarterly employment levels and coal production. Employment and production data when correlated with accident and injury data provide information for making decisions on improving safety and health enforcement programs, focusing education and training efforts, and establishing priorities in technical assistance activities in mine safety and health.

Ira L. Mills
Departmental Clearance Officer.
[FR Doc. 99-19112 Filed 7-26-99; 8:45 am]
BILLING CODE 4110-13-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review;
Comment Request

July 21, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219-5096 ext. 143) or by E-Mail to Mills-ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Mine Accident, Injury, and Illness Report.

OMB Number: 1219-0007.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Regulatory reference	Responses	Frequency	Annual responses	Average time per response	Burden hours
50.10 Immediate Notification	91 fatalities 2,158 other	One-time	2,247	30 minutes	1,124
50.11(b) Investigation of Accidents/Occupational Injuries	48 fatalities 20,670 nonfatal 1,611 other	One-time	22,329	80 hours 2 hours 3 hours	50,013
50.11(b) Separate Reports <20 employees	43 fatalities 545 other	One-time	588	40 hours 3 hours	3,355
50.20 Reports	22,997 initial 11,937 follow-up	One-time	34,934	30 minutes 20 minutes	15,438
Verify Data Mailer	10,000	Annually	10,000	30 minutes	5,000
Correct Data Mailer	248	Annually	248	15 minutes	62
Totals			70,344		74,992

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$19,189.

Description: Mine operators are required to submit Form 7000-1 to MSHA to report on accidents, injuries, and illnesses at their mines within 10 working days after an accident or injury has occurred or a work-related illness has been diagnosed. The use the form

provides for uniform information gathering.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. 99-19113 Filed 7-26-99; 8:45 am]
BILLING CODE 4110-13-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99-29; Exemption Application No. D-10747]

Bankers Trust Co., New York, New York, BT Alex Brown Inc., and Deutsche Bank AG

AGENCY: Pension and Welfare Benefits Administration, Department of Labor
ACTION: Grant of Individual Exemption.

SUMMARY: This document contains a final exemption from certain of the

prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and the Internal Revenue Code of 1986 (the Code). The final exemption, granted by the Department of Labor (the Department) to Bankers Trust Company, BT Alex Brown and Deutsche Bank AG, provides that those entities shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Exemption 84-14 (49 FR 9494, March 13, 1984)(PTE 84-14) solely because of a failure to satisfy section 1(g) of PTE 84-14 as a result of Bankers Trust Company's conviction for felonies described in a March 11, 1999 felony information.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams-Lavigne of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 7, 1999, the Department published a notice in the Federal Register of the pendency before the Department of a proposed exemption requested by Bankers Trust Company and Deutsche Bank AG. The Department proposed the exemption in response to an application dated March 12, 1999, which was submitted on behalf of Bankers Trust Company and its future affiliates pursuant to section 408(a) of the Act and section 4975(e)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart (55 FR 32836, 32847, August 10, 1990).¹

The notice set forth a summary of the facts and representations contained in the application for exemption and also invited interested persons to submit comments or requests for a hearing on the pending exemption to the Department.

The applicants agreed to provide notice to interested persons within three days of the date that the proposal appeared in the Federal Register. The applicants have represented that notice was furnished to five interested persons two days later than that date. As a result, the comment period was extended for two additional days. The applicants represent that notice to all other interested persons was furnished in a timely manner. All comments and requests for hearing were due by July 12, 1999.

The Department received eleven comments from interested persons on the proposed exemption. The

Department forwarded copies of the comments to the applicants and requested that the applicants address in writing the various concerns raised by the commentators. Most of the comments fell into broad categories that the applicants responded to in a general fashion. Where a single commentator raised a specific issue, such issue was responded to individually. A description of the comments and the applicants' responses are summarized below.

One commentator urged that the exemption not be granted because he had not received all of his benefits under a plan maintained by Bankers Trust Company. Bankers Trust Company notes that the former participant enclosed with his comment a copy of the check receipt that he had received at the time of the distribution. Bankers Trust Company believes that the participant received the full amount of his benefit at the time he received his check receipt.

Five comments urged denial of the exemption because of the commentators' belief that Bankers Trust Company has failed to meet the highest standard as a fiduciary. Deutsche Bank AG responded that it is committed to maintaining the highest fiduciary standards on which Bankers Trust Company was organized in 1903, and intends to bring together the best of the long traditions of service of each organization, building on the organizational changes described in the exemption application and the new policies and procedures put in place in the recent past.

One commentator suggested that not all employees have received certain ethics training. Deutsche Bank AG represents that it will verify that all Global Institutional Services (GIS) employees have received the appropriate training.² Another commentator was concerned that the legal protections of the Act and the Code would be eliminated if the exemption was granted. Deutsche Bank AG responded that it understands that all of the legal requirements of the Act and the Code continue to apply to the employee benefit plans of Bankers Trust Company and, as sponsor of those plans, represents that it will fully comply with all laws respecting its plans.

Two commentators opposed the granting of the exemption because they had unanswered questions about their

benefits. While these comments did not relate to the terms of the exemption, Deutsche Bank represents that it will contact those commentators and attempt to resolve their questions.

Another commentator argued that the exemption ought to be denied because, in the commentator's view, Deutsche Bank AG discriminates against members of the Church of Scientology. Deutsche Bank AG states that it maintains strict policies against discrimination on the basis of sex, race, creed or national origin and believes that those policies have been adhered to. Another commentator argued that the exemption should be denied because, in the past, Bankers Trust Company merged two of its employee benefit plans inappropriately. Bankers Trust Company responds that its actions in merging its plans were fully in compliance with the law.

In addition to comments, questions and requests for a hearing, the Department also received a comment letter, dated July 13, 1999, from Deutsche Bank AG. Deutsche Bank AG notes that Paragraph 2 of the Facts and Representations of the Notice states that BT Alex Brown is a subsidiary of Bankers Trust Corporation. Deutsche Bank AG noted that while that fact was true as of the date of the proposed exemption, BT Alex Brown is now a subsidiary of Deutsche Bank Securities, Inc.

Two commentators also requested a hearing on the proposal. The Department believes that the issues raised by the commentators are outside the scope of the proposed exemption. Accordingly, the Department does not believe that any issues have been identified which would require the convening of a hearing and has determined not to hold a public hearing.

Accordingly, after giving full consideration to the entire record, including the comments by the commentators, and the responses of the applicants, the Department has determined to grant the exemption. In this regard, the comments submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N-5507, U.S. Department of Labor, 200 Constitution Ave. NW, Washington DC 20010.

¹ Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of Treasury to issue exemptions of the type proposed to the Secretary of Labor.

² The March 11, 1999 felony information related to the conduct of certain employees in Bankers Trust Company's processing services business. This unit was subsequently restructured as part of GIS.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and/or 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and/or the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary provisions of section 404 of the Act which, among other things, requires a fiduciary to discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption is supplemental to and not in derogation of any other provisions of the Act and/or Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete and accurately describe all material terms of the transaction which is the subject of this exemption.

Exemption**Section I. Bankers Trust Company**

Bankers Trust Company shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Exemption 84-14 (49 FR 9494, March 13, 1994) (PTE 84-14) for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company³ pled guilty on March 11, 1999 and ending five years⁴ from the date of publication of the final exemption in the Federal Register.

³ On June 4, 1999, Bankers Trust Corporation, the parent of Bankers Trust Company, was acquired by Deutsche Bank AG. Bankers Trust Company, now a subsidiary of Deutsche Bank AG, continues to offer banking services to its clients.

⁴ Prior to the expiration of this exemption, Bankers Trust Company may apply for an extension of the exemption.

solely because of a failure to satisfy section 1(g) of PTE 84-14 as a result of the conviction of Bankers Trust Company for felonies described in the March 11, 1999 felony information (the Information) entered in the U.S. District Court for the Southern District of New York, provided that:

(a) This exemption is not applicable if Bankers Trust Company becomes affiliated with any person or entity convicted of any of the crimes described in section 1(g) of PTE 84-14; and

(b) This exemption is not applicable if Bankers Trust Company is convicted of any of the crimes described in section 1(g) of PTE 84-14, other than those felonies discussed in the Information;

(c) The custody operations that were part of Bankers Trust Company at the time of the March 11, 1999 information, and which have subsequently been reorganized as part of Global Institutional Services (GIS), are subject to an annual examination of its abandoned property and escheatment policies, procedures and practices by an independent public accounting firm. The examination required by this condition shall determine whether the written procedures adopted by Bankers Trust Company are properly designed to assure compliance with the requirements of ERISA. The annual examination shall specifically require a determination by the auditor as to whether the Bank has developed and adopted internal policies and procedures that achieve appropriate control objectives and shall include a test of a representative sample of transactions, fifty percent of which must involve ERISA covered plans, to determine operational compliance with such policies and procedures. The auditor shall issue a written report describing the steps performed by the auditor during the course of its examination. The report shall include the auditor's specific findings and recommendations. This requirement shall continue to be applicable to the custody operations that were part of Bankers Trust Company as of March 11, 1999, notwithstanding any subsequent reorganization of the custody operation function during the term of the exemption.

(d) With respect to the independent audit report described in section 1(c) above:

(1) Bankers Trust Company shall provide notice to the Department of any instances of the Bank's noncompliance with the written policies and procedures reviewed by the auditor within 10 business days after such noncompliance is determined by the auditor notwithstanding the fact that the

examination may not have been completed as of that date. Upon request, the auditor shall provide the Department with all of the relevant workpapers reflecting the instances of noncompliance. The workpapers should identify whether and to what extent the assets of ERISA plans were involved in the instances of noncompliance, and

(2) Any information relating to the Bank's noncompliance with the written policies and procedures that is required by Federal and/or state banking authorities to be reported to the state and/or Federal banking agencies shall also be reported by Bankers Trust Company to the Department within the same time frames that such information is otherwise required to be reported to those agencies.

(e) The annual examination described in section 1(c) above will be provided to the Department not later than 90 days following the 12 month period to which it relates, and will be unconditionally available for examination by any duly authorized employee or representative of the Department, Internal Revenue Service, Securities and Exchange Commission or Department of Justice or other relevant regulators and any fiduciary of a plan for which Bankers Trust Company performs services.

Section II

BT Alex. Brown Incorporated and its subsidiaries and Deutsche Bank AG shall not be precluded from functioning as a "qualified professional asset manager" pursuant to PTE 84-14 for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company pled guilty on March 11, 1999 and ending ten years from the date of publication of the final exemption in the Federal Register, solely because of a failure to satisfy section 1(g) of PTE 84-14 as a result of an affiliation with Bankers Trust Company, provided that:

(a) This exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG becomes affiliated with any person or entity convicted of any of the crimes described in section 1(g) of PTE 84-14; and

(b) This exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG is convicted of any of the crimes described in section 1(g) of PTE 84-14.

Section III. Definitions

(a) For purposes of this exemption, the term "Bankers Trust Company" includes Bankers Trust Company and any entity that was affiliated with Bankers Trust Company prior to the

date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, other than BT Alex. Brown Incorporated and its subsidiaries.

(b) For purposes of this exemption, "Deutsche Bank AG" includes Deutsche Bank AG and any entity that was affiliated with Deutsche Bank AG prior to the date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, and any future affiliates, other than Bankers Trust Company, as defined in subsection (a).

(c) The term "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any director of, relative of, or partner in, any such person.

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and.

(4) Any employee or officer of the person who—

(A) is a highly compensated employee (as defined in section 4975(c)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person) or,

(B) has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, DC, this 22nd day of July, 1999.

Ivan L. Sernsfield,

Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
Department of Labor.

[FR Doc. 99-19152 Filed 7-26-99; 8:45 am]
BILLING CODE 4160-29-P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99-30;
Exemption Application Nos. D-10663, et al.]

Grant of Individual Exemptions;
Premier Funding Group, Inc.;
Employees Profit Sharing Plan, et al

AGENCY: Pension and Welfare Benefits
Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains
exemptions issued by the Department of
Labor (the Department) from certain of

the prohibited transaction restrictions of
the Employee Retirement Income
Security Act of 1974 (the Act) and/or
the Internal Revenue Code of 1986 (the
Code).

Notices were published in the Federal
Register of the pendency before the
Department of proposals to grant such
exemptions. The notices set forth a
summary of facts and representations
contained in each application for
exemption and referred interested
persons to the respective applications
for a complete statement of the facts and
representations. The applications have
been available for public inspection at
the Department in Washington, DC. The
notices also invited interested persons
to submit comments on the requested
exemptions to the Department. In
addition the notices stated that any
interested person might submit a
written request that a public hearing be
held (where appropriate). The
applicants have represented that they
have complied with the requirements of
the notification to interested persons.
No public comments and no requests for
a hearing, unless otherwise stated, were
received by the Department.

The notices of proposed exemption
were issued and the exemptions are
being granted solely by the Department
because, effective December 31, 1978,
section 102 of Reorganization Plan No.
4 of 1978 (43 FR 47713, October 17,
1978) transferred the authority of the
Secretary of the Treasury to issue
exemptions of the type proposed to the
Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of
the Act and/or section 4975(c)(2) of the
Code and the procedures set forth in 29
CFR part 2570, subpart B (55 FR 32836,
32847, August 10, 1990) and based upon
the entire record, the Department makes
the following findings:

(a) The exemptions are
administratively feasible;

(b) They are in the interests of the
plans and their participants and
beneficiaries; and

(c) They are protective of the rights of
the participants and beneficiaries of the
plans.

Premier Funding Group, Inc. Employees
Profit Sharing Plan (the P/S Plan) and the
Mersey Purchase Pension Plan for Employees
of Premier Funding Group, Inc. (the M/P
Plan, collectively, the Plans) Located in
Arlington, Texas

[Prohibited Transaction Exemption 99-30;
Exemption Application Nos. D-10663 and D-
10670]

Exemption

The restrictions of sections 408(a),
408(b)(1) and (b)(2) of the Act and the
sanctions resulting from the application
of section 4975 of the Code, by reason
of section 4975(c)(1)(A) through (E) of
the Code, shall not apply as of February
1, 1999, to a lease (the Lease) of certain
second-floor space (the Leased
Premises) in a building by the Plans to
LM Holdings, Inc., a party in interest
with respect to the Plans; provided that
the following conditions are satisfied:

(a) All terms and conditions of the
Lease are at least as favorable to the
Plans as those which the Plans could
obtain in an arm's-length transaction
with an unrelated party;

(b) The fair market rental amount for
the Lease has been determined by an
independent qualified appraiser;

(c) Each Plan's allocable portion of the
fair market value of both the Leased
Premises and the building where the
Leased Premises are located represents
no more than 20 percent (20%) of the
total assets of each Plan throughout the
duration of the Lease;

(d) The interests of the Plans under
the Lease are represented by an
independent, qualified fiduciary (the
Independent Fiduciary);

(e) The fees received by the
Independent Fiduciary, combined with
any other fees derived from any related
parties, will not exceed 1% of that
person's annual income for each fiscal
year that such person continues to serve
in the Independent fiduciary capacity
with respect to the Lease;

(f) The Independent Fiduciary
evaluated the Lease and deemed it to be
administratively feasible, protective and
in the best interest of the Plans;

(g) The Independent Fiduciary
monitors the terms and the conditions
of the exemption and the Lease
throughout its duration, and takes
whatever action is necessary to protect
the Plans' rights;

(h) At the discretion of the
Independent Fiduciary, the Lease can be
extended for two additional five-year
terms, provided that the Independent
Fiduciary requires independent
appraisals of the Leased Premises to be
performed at the time of each extension
of the Lease so as to ensure that LM
Holdings continues to pay fair market

EXHIBIT H

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
WASHINGTON, D.C.

EUROPE
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: (212) 819-8740

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
SINGAPORE
TOKYO

MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY
SAO PAULO

AFRICA
JOHANNESBURG

December 22, 1999

BY HAND

Jonathan D. Bassett, Esq.
Van Lierop, Burns & Bassett, LLP
320 Convent Avenue
New York, New York 10036-6331

Dear Mr. Bassett:

In accordance with the stipulation between us and the statements made on the record before Justice Cozier on December 17, 1999, at Supreme Court, New York County, IAS Part 3, we enclose copies of Exhibits B, C and E (the "Exhibits") to the petition of Bankers Trust Company verified on September 29, 1999.

We are submitting them to Mr. Van Lierop and you on the understanding that both of you will be bound by the Court's order dated October 29, 1999 impounding the Exhibits; that is that, other than Mr. Von Lierop and you, they will:

"... not be disclosed to, inspected by or made available for copying to any persons other than (a) individuals associated with or employed by the Court or (b) individuals who may present an order from the Court granting permission to inspect [the Exhibits]"

These Exhibits are of course highly confidential and sensitive. We request that no later than the conclusion of this proceeding, all the Exhibits and all copies as well as any part thereof be returned to us as attorneys for petitioners.

In your letter of December 21, 1999 to Mr. Rutherford, you suggest that Mr. Van Lierop and you are interested in inspecting the material submitted by Bankers Trust Company in support of its successful application to the New York State Parole Board. We enclose a copy of that application with this letter. Again, a good deal of the information contained therein is intended to

Exhibit 113

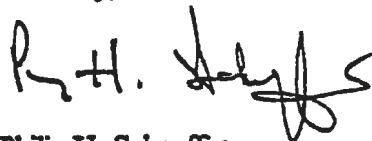
WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

EXHIBIT H

Jonathan D. Bassett, Esq.
Page 2

be confidential and we request that when you have completed your inspection and use thereof, you return the copy of the application to us together with any copies you choose to make.

Sincerely,



Philip H. Schaeffer

PHS:ema

cc: Robert F. Van Lierop, Esq. (w/o encl.)



STATE OF NEW YORK
BANKING DEPARTMENT
2 RECTOR STREET
NEW YORK, NY 10006

August 23, 1999

Mr. Martin Cirincione
Executive Director
Division of Parole
97 Central Avenue
Albany, New York 12206

Dear Mr. Cirincione:

This letter is in support of an application filed on behalf of Bankers Trust Company with the Division of Parole seeking relief from the provisions of Section 707 of the Surrogate's Court Procedures Act which prevents a convicted felon from serving as trustee and executor in estates and trusts domiciled in the State of New York. Relief from this constraint, which can be granted only by the Division of Parole through the issuance of a Certificate of Relief from Disability under Article 23 of the New York Corrections Law, would benefit the people of the State of New York in that estates and trusts would be free to benefit from the services of the trustee or executor of their choice. Currently, Bankers Trust Company acts as trustee for more than two thousand New York trusts with an aggregate value of over \$4 billion.

BACKGROUND

Bankers Trust Company was originally chartered by the State of New York in 1903. It is among the largest commercial banks in New York City and the United States, based on total assets. At December 31, 1998, it had total assets of \$111.3 billion. Bankers Trust Company originates loans and other forms of credit, accepts deposits, arranges financing and provides numerous other commercial banking and financial services. In addition, the trust company is one of the world's largest investment managers with more than \$320 billion in assets under management. It is also the fourth largest custodian in the world with \$2 trillion in assets in safekeeping. The trust company is currently named as executor in over four hundred wills.

Exhibit 101

INAPPROPRIATE CONDUCT

A division of Bankers Trust Company known as Client Processing Services, provides trust, custodial, administrative and agent bank functions to institutional and individual customers, in connection with securities transactions and the administration of employee benefit and pension plans. In its day to day operations, the trust company generates checks issued to customers which represent payment of dividends, interest or principal on securities and distributions from employee benefit and pension plans. These checks, for various reasons, remain uncashed from time to time. Other credits in the trust company's books and records are generated as a result of overpayment of moneys from customers relating to securities transactions. Any funds that remain unclaimed after appropriate research and return to their rightful owners, become as a matter of law, due and owing to various states.

During the interval from the beginning of 1993 through the end of 1995, a substantial amount of unclaimed funds were inappropriately converted to income and reserves of the trust company.

Upon the discovery of these improprieties, the trust company notified the New York State Banking Department and its federal bank regulator and also notified the United States Attorney for the Southern District of New York. Bankers Trust Company retained outside counsel and an independent certified public accounting firm to assist it in performing a comprehensive forensic and diagnostic review of the inappropriate activities during the relevant period. It initiated corrective action (detailed below) even before its regulators mandated such action.

THE PLEA AGREEMENT

On March 11, 1999, Bankers Trust Company announced that it had reached an agreement with the United States Attorney's Office in the Southern District of New York and with the New York State Banking Department to resolve the investigation concerning the inappropriate transfer of the unclaimed funds and the related recordkeeping problems. Bankers Trust Company pleaded guilty to misstating entries in its books and records and agreed to pay a \$60 million fine to the federal government and \$3.5 million to the State of New York.

A consequence of the plea agreement and the subsequent sentencing that occurred on July 26, 1999 is that Bankers Trust Company is ineligible to obtain fiduciary letters from the Surrogate's Court under Section 707 of the Surrogate's Court Procedures Act, jeopardizing its ability to serve as trustee and executor for trusts

and estates in the State of New York for which it promised to perform such services.

REMEDIAL ACTIONS

Based on the results of the trust company's internal review (referred to above under "INAPPROPRIATE CONDUCT"), and in consultation with the New York State Banking Department, remedial steps were taken as follows:

1. Improved policies and procedures were adopted that relate to:
 - Accounting practices
 - Risk management
 - Compliance and internal controls
 - Management information reporting

These policies and procedures manuals occupy nineteen feet of shelf space and are available for review at the Banking Department's office.

2. New training programs were adopted for personnel in the Client Processing Services division with respect to business practices and responsible decision making.
3. The trust company replaced and supplemented personnel in the Client Processing Services division, including the replacement of the head of the business group and the head of the areas specifically involved in the offending behavior.
4. The trust company created an independent risk management and control function that materially improves reporting of this business line to senior management.
5. Internal audit functions have been enhanced and the audit scope has been expanded. The size of the audit staff has also been increased.
6. The independent external audit was expanded to include a review of the improved policies and procedures referred to in item one above.

When Bankers Trust Company entered into the letter of commitment with the New York State Banking Department on March 11, 1999, and agreed to pay \$60 million to the federal government and \$3.5 million to New York State, it also agreed to maintain the improved policies, procedures and internal audit scope and frequency and to make no changes therein without the prior approval of the Superintendent of Banks. The trust company has also submitted periodic reports to the Department

4

on the substantial progress that it has made in returning funds to the owners or to the states and submitted a final plan of restitution which is acceptable to the Banking Department and to the United States Attorney's Office for the Southern District of New York.

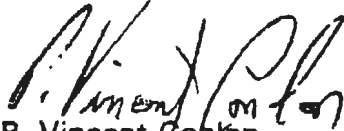
On June 4, 1999, Deutsche Bank, AG, Frankfurt, Germany acquired all of the outstanding shares of common stock of Bankers Trust Corporation pursuant to an agreement dated November 30, 1998. This change in control was approved by the New York State Banking Board on May 6, 1999. This change in control does not alter the obligations of Bankers Trust Company under the letter of commitment dated March 11, 1999.

It is the opinion of the New York State Banking Department that the current management of Bankers Trust Company has taken all steps necessary to prevent a reoccurrence of the inappropriate conduct that gave rise to the letter of commitment between the Department and Bankers Trust Company dated March 11, 1999. None of the individuals who participated in or who had knowledge of the conduct are currently employed in this business line. We will continue to monitor the activities of this company through periodic on-site examinations conducted by New York State bank examiners.

In conclusion, the Banking Department is not aware of any condition or circumstance that might be an impediment to the Division of Parole granting the necessary Certificate of Relief under Article 23 of the New York Correction Law.

If I can be of assistance to you or to the members of the Parole Board, please feel free to contact me at (212) 618-6625.

Very truly yours,



P. Vincent Conlon

Deputy Superintendent of Banks



WESTCHESTER COUNTY SURROGATE'S COURT

Jody B. Keltz
COURT ATTORNEY-REFEREE

140 Grand St.
White Plains, N.Y. 10601

Tel: (914) 995-6242
Fax: (914) 995-3728

Internet: JKELTZ@COURTS.STATE.NY.US

Exhibit 102



THE NEW YORK BULLETIN

New York Courts' Dastardly Deeds

The Departed: Resting in Peace or Spinning in Their Graves

By KENN MCKEOWN

When 88-year-old Berta M. Murray died on August 12, 1997, she probably had not previously considered that the Scarsdale home built in 1928 by her father, and that had been in her family for decades, would soon be occupied by a New York State court-employed attorney who worked in the very same department changed with the duty to oversee the affairs of the deceased.

The fact that an insider, who was a semi-employed attorney, had purchased Berta's home was secreted from surviving relatives and they weren't too happy about the news. Though Berta has been gone for 15 years, questions remain as to exactly what happened with the transfer of the Murray real estate.

Westchester Surrogate's Court employee, attorney-referee Jody B. Keltz and her attorney-husband, Carl T. Peluso, of Peluso & Touger, in Manhattan, really liked that house at 168 Gaylor Road in Scarsdale, New York, so in they moved in the Spring of 1998. The two attorneys still call the 5 bedroom / 3 bathroom house, home.

Public documents, and interviews with Berta's relatives, provide a picture of how an insider came to own the deceased lady's house.

By all accounts, the Keltz-Peluso attorney never knew Berta, and they had most likely never invited the elderly widow to their prior home located at 75 Third Place, in Brooklyn, New York.

"It's outrageous that a Surrogate's Court lawyer bought Berta's house," said an 80-plus-year-old cousin of Berta, who never knew that Ms. Keltz was a lawyer in the Westchester Surrogate's Court. "This stinks to high heaven, and I'm mad. It's just not right, I don't like this at all!" she

added.

Surrogate Court attorney Jody Keltz subsequently became involved in the Brooke Astor estate proceedings, an estate worth nearly \$200 million, and where the millions are still being divided.

Bad New York History Repeating Itself

The real estate deal by the Keltz-Peluso team is reminiscent of a Brooklyn Surrogate Court "arrangement" in 2002 where, the Village Voice described it as...

"Judge Scholnick's clerk ... snatched up the 11-room brownstone... of 85-year-old Elsie Perry... in a move that would make Donald Trump proud... Honorably, Brooklyn Chief Court Clerk George Crowley, refused to keep quiet, saying publicly that, 'If I did this, I would expect to be fired. The whole thing was unethical...the judge shouldn't have allowed it...'"

Brooklyn senior court official Crowley was so outraged by the cozy inside real estate deal that he took the highly-unusual step of placing a note about it in the decedent's Brooklyn Surrogate's Court case file.

But in the Westchester Murray-Keltz-Peluso transfer, no such concern has ever been voiced or documented by the Surrogate's Court Chief Clerks John Kelly or Joseph Accetta, or more importantly by their bosses.

"Isn't a Surrogate Court supposed to make sure everything is on the up-and-up, and handled properly?" asked Berta's cousin, adding, "I knew Berta over seventy years, and everyone knew she wanted that house to stay in the family!"

Berta's Deeds Enter the Villainous

A review of Berta Murray's estate file has an appearance that it is largely normal, according to legal experts engaged to analyze the Murray estate transactions,

and who are familiar with New York estate law, ethical obligations and the specific practices of the Westchester County Surrogate's Court.

However, they noted, the complete absence of any estate file "accounting" is quite unusual.

And though not required, the name of Surrogate's Court attorney-referee Jody B. Keltz is nowhere to be found in the estate file. A review of the property deed on file in the Westchester County Clerk's office, however, memorializes the transfer of ownership of 168 Gaylor Road in Scarsdale, New York, from the "Estate of Berta M. Murray... by The Bank of New York... to Carl T. Peluso and Jody B. Keltz, his wife."

In a telephone conversation, a court employee confirmed that Ms. Keltz was still employed as an attorney in the Surrogate's Court's law department.

When asked to comment about the Keltz property transfer, she advised that, "If you want to keep your job around here, you keep your mouth shut." When asked her name, the telephone connection ended.

An in-depth analysis, however, reveals some eyebrow-raising facts to experts, including that Berta's last will was substantially different than her stated wishes as expressed to friends and relatives since her husband Elmer died in December of 1982.

A nice "crumb," if you can get it

Berta's estate file shows a relatively standard probate proceeding, but it is quickly observed that a bank, The Bank of New York, is the fiduciary. At the time of Berta's death, the house was valued at \$350,000.00, approximately one half of the total estate value of \$742,968.00. Now, according to the Village of Scarsdale Tax Office, 168 Gaylor Road is

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Royce was named Hudson Valley
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cross country runner Tayler Fisher
and senior volleyball player Elizabeth
Johnston were named to the Hudson

Mercy College field hockey
squad lost to Limestone 4 to 0. In
more Mercy College news, the college
recently unveiled its new athletic field,
the Mavericks soccer, lacrosse, baseball
and field hockey teams will use the

The regular NFL referees have
returned to work, so now I can sleep
again at night... see you next time.

Mark Jeffers resides in Bedford Hills,
New York, with his wife Sarah, and three
daughters, Kate, Amanda, and Claire.

NEWS BULLETIN

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ng In Their Graves

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Murray-Keltz-
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estate file has
ngely normal,
s engaged to
e transactions,

and who are familiar with New York estate
law, ethical obligations and the specific
practices of the Westchester County
Surrogate's Court.

However, they noted, the complete
absence of any estate file "accounting" is
quite unusual.

And though not required, the name of
Surrogate's Court attorney-referee Jody
B. Keltz is nowhere to be found in the
estate file. A review of the property deed
on file in the Westchester County Clerk's
office, however, memorializes the transfer
of ownership of 168 Gaylor Road in
Scarsdale, New York, from the "Estate
of Berta M. Murray...by The Bank of
New York...to Carl T. Peluso and Jody
B. Keltz, his wife."

In a telephone conversation, a court
employee confirmed that Ms. Keltz
was still employed as an attorney in the
Surrogate's Court's law department.

When asked to comment about the Keltz
property transfer, she advised that, "If you
want to keep your job around here, you
keep your mouth shut." When asked her
name, the telephone connection ended.

An in-depth analysis, however, reveals
some eyebrow-raising facts to experts,
including that Berta's last will was
substantially different than her stated
wishes as expressed to friends and rela-
tives since her husband Elmer died in
December of 1982.

A nice "crumb," if you can get it
Berta's estate file shows a relatively stan-
dard probate proceeding, but it is quickly
observed that a bank, The Bank of New
York, is the fiduciary. At the time of
Berta's death, the house was valued at
\$350,000.00, approximately one half
of the total estate value of \$742,968.00.
Now, according to the Village of
Scarsdale Tax Office, 168 Gaylor Road is

conservatively valued at \$900,000.00.

"In Westchester, everyone gets a
crumb," one estate lawyer noted. But
those associated with the "new" wishes
of Berta Murray EACH received
"crumbs" worth tens of thousands of
dollars:

1. Attorney W. Rowland Miller of the
Judy, Miller & O'Connor law firm
in Scarsdale, who drafted the Will for
Berta, and in which The Bank of New
York is named as the new fiduciary, and
who was then retained as the attorney
for the fiduciary, The Bank of New
York;

2. Attorney Samuel S. Yagur, then of
the Hall Dickler LLP law firm, and who
was appointed by former Hall Dickler
lawyer and then Judge Emanuelli to
represent "unknown heirs"; and

3. Real estate agent Camille Paradise of
Claire D. Leone Real Estate, who lived
in Berta's neighborhood, and who was
the realtor that handled the sale of the
house to court employee Keltz and her
husband.

Conflict? What's a Conflict?

"Judges and attorneys have an obliga-
tion to avoid even the appearance of
impropriety," observed one White
Plains estate attorney who asked that
his name be withheld, adding, "But
that ethical requirement doesn't apply
here; every player gets their piece of the
pie, that's how court business is done
in Westchester County." He conceded
that, "On its face, this doesn't look
good, a state-employed attorney, referee
working in the Surrogate's Court
shouldn't be purchasing a house from
any estate her court is overseeing."

New York State Court employee
Jody Keltz, according to state records,
is still employed as an attorney for
Westchester County Surrogates Court.
New York's Surrogate's Courts are
charged with insuring a high level of
integrity in the administration of estate
proceedings, and holding professional
fiduciaries, such as banks, to a high set
of ethical and performance standards.

Berta's estate hardly had an ethical

chance in the Empire State when
you consider the estate of a Brooklyn
gentleman, John Phillips.

Estate Corruption Targeted Retired New York Judge

Apparently, even the estates of retired,
ailing New York judges are fair game
for savage insiders who use a corrupted
system to advance their desires; and espe-
cially if that estate is worth \$10 million.

Respected New York Judge John L.
Phillips, became a ward of the court, and
lived out his last days in an assisted living
facility. His last days were controlled by
corrupt insiders, and his property was
"sold" at unpublicized auctions.

Judge Phillips, 83-years-old when he died
in 2008, was known as the "Kung-Fu
Judge", having earned the rank of
10th-degree black belt. But the judge
would be no match for those controlling
his wealth.

"I'm 6 feet 1," Judge Phillips once said.
"I can kill you with my hands faster than
you can believe, and I carry a gun. But I'm
scared to walk the streets at night. How
do you think black women feel?"

After one real estate purchase, his admired
beliefs led him to rename the century-old
Regent theatre in Brooklyn to The Slave
Theater, "so that no one would ever forget
our struggles."

When Judge Phillips finally died, a court-
appointed attorney-guardian, who forgot
to file estate tax returns, remembered to
write herself checks for \$187,000.00. The
lawyer, Emani P. Taylor, was ultimately
ordered to payback \$403,000.00 to the
Judge Phillips Estate, and her conduct
was deemed "egregious" by Judge
Michael A. Ambrosio.

Attorney Taylor has been suspended from
the practice of law in New York State,
and the social struggles voiced by Judge
Phillips go on.

Those who knew Berta Murray are still
waiting for some long-overdue justice in
how her affairs are finally settled.

Learn more at www.TheNewYorkBulletin.com



PILLSBURY WINTHROP LLP

ONE BATTERY PARK PLAZA NEW YORK, NY 10004-1490 212.858.1000 F:212.858.1500

David G. Keyko, Esq.
212.858.1604
dkeyko@pillsburywinthrop.com

April 1, 2003

BY FACSIMILE AND REGULAR MAIL

Raymond R. Dowd, Esq.
Jason E. Bogli, Esq.
Dowd & Marotta LLC
277 Broadway, Suite 1310
New York, NY 10007

Re: Estate of Edmund J. McCormick

Gentlemen:

I am writing with respect to the Order to Show Cause captioned "In the Matter of the Application of Bankers Trust Company of New York (f.k.a. Deutsche Bank Trust Company) and Bankers Trust Company, Petitioners, for substitution of fiduciary relationships pursuant to New York Banking Law 154," which your firm filed on March 17, 2003 on behalf of Suzanne McCormick. As you know, the Order to Show Cause seeks an order vacating an alleged default by Mrs. McCormick and clarifying whether the Bank's 1999 motion to substitute Bankers Trust Company of New York as fiduciary in the place and stead of Bankers Trust Company affects the Estate of Edmund J. McCormick. For the reasons set forth below, we demand that you immediately dismiss this action with prejudice.¹

In 1999, the Bank commenced, by Petition verified on September 28 and 29, 1999, a proceeding (the "Proceeding") in the Supreme Court, New York County, to substitute Bankers Trust Company of New York in the place and stead of Bankers Trust Company as fiduciary in certain instances. The request was granted by Order of the Supreme Court

¹ The second order to show cause filed by your firm on March 17, 2003, captioned "Suzanne McCormick, as executor and beneficiary of the Will and Trust of the Estate of Edmund J. McCormick, Petitioner, against Bankers Trust Company et al.," seeking an order annulling the Certificate of Relief from Disabilities, also relies upon and recites the same inaccurate allegations discussed herein. We demand that you take appropriate action with respect to that proceeding as well. While we believe that motion also is infirm on a number of other grounds, we will address those grounds at a later time.

Exhibit 103



PILLSBURY WINTHROP LLP

April 1, 2003

Page 2

dated February 24, 2000. Because the McCormick Estate was not affected by the Proceeding, Mrs. McCormick was not entitled to notice and did not default.

As the Guardian's Report cited in your papers correctly notes,² the Bank sought to substitute Bankers Trust Company of New York for Bankers Trust Company with respect to (i) such of Bankers Trust Company's existing fiduciary relationships as were identified in Exhibit B to the Petition (filed under seal); and (ii) each and every fiduciary relationship taking effect after the date of the hearing of the Petition. Because the Bank was appointed as co-executor of the McCormick Estate long before the Proceeding was commenced, the McCormick Estate would have had to have been specifically listed in Exhibit B to the Petition to be affected by the Proceeding and the Court's February 24, 2000 Order. It was not so listed. Indeed, both Exhibit B to the Petition and Exhibit 1 to the February 24, 2000 Order, which also was filed under seal, reflect that no substitution of Bankers Trust Company New York in place of Bankers Trust Company was sought or effected with respect to the McCormick Estate. Mrs. McCormick therefore was not given notice of the Proceeding.

Because no substitution was effected, the same corporate entity has continued as co-executor of the Estate. You undoubtedly must be aware of this based upon the filings in the McCormick Estate accounting proceeding. Effective April 15, 2002, the Office of Superintendent of Banks, State of New York Banking Department approved a change of name from Bankers Trust Company to Deutsche Bank Trust Company Americas. You must also be aware of this, as the name change has been reflected in numerous affidavits (including the one you attached to your order to show cause) and memoranda filed by the Bank in the accounting proceeding. Those filings consistently have identified the Bank as "Bankers Trust Company, now known as Deutsche Bank Trust Company Americas."

Given these facts, it is clear that the McCormick Estate was not affected by the Proceeding and thus has no basis or standing to challenge the February 24, 2000 Order substituting Bankers Trust Company of New York for Bankers Trust Company with respect to certain fiduciary relationships with which Mrs. McCormick has no connection. We therefore demand that the motion to vacate a default, unseal the record, and clarify the effect of the February 24, 2000 order be withdrawn with prejudice immediately.

² The Guardian's Report quoted in your supporting papers makes absolutely clear that there are two classes of fiduciary relationships affected by the Proceeding -- the first of which includes certain identified trusts and estates for which the Bank *previously had been appointed* as fiduciary and the second of which includes each and every fiduciary relationship that will take effect *in the future*. Your papers misleadingly highlight only a portion of the text in the Report in order to blur the distinction between these two classes and support your inaccurate conclusion that all trusts and estates were affected.



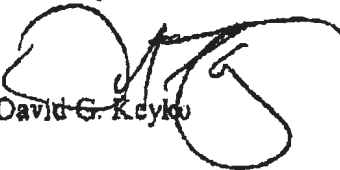
PILLSBURY WINTHROP

April 1, 2003

Page 3

In the event that your client elects to go forward with the pending motion, we will have no choice but to make a motion to dismiss and, in conjunction therewith, seek appropriate remedies (including sanctions) for your commencement and prosecution of frivolous litigation. I trust this will not be necessary.

Sincerely,



David G. Keylor

cc: Charles G. Berry, Esq.
David P. Geis, Esq.
Stephen E. Kesselman, Esq.
Robert F. Van Lierop, Esq.
Robert E. Tiedemann, Esq.

21 JAN 2006 10:20

January 18, 2006

David G. Keyko
Phone: 212.858.1604
david.keyko@pillsburylaw.com

The Honorable James D. Pagonis
Surrogate's Court
Dutchess County Courthouse
10 Market Street
Poughkeepsie, NY 12601

Re: Estate of Edmund J. McCormick (File No. 3522-1988)

Dear Surrogate Pagonis:

We represent Bankers Trust Company ("Bankers Trust"), now known as Deutsche Bank Trust Company Americas, in this matter with respect to the objections of Suzanne V. McCormick ("Mrs. McCormick") to Bankers Trust's and Herman Markowitz's Final Account of their proceedings as co-executors of the Estate of Edmund J. McCormick (the "Estate") for the period from November 27, 1988 through July 25, 1996. We write to bring to the Court's attention an apparent violation of this Court's order.

Before the above-referenced accounting proceeding was transferred to Your Honor, Surrogate Scarpino had, on December 6, 2001, so-ordered a certain Stipulation and Order (the "Stipulation") embodying the agreement by and among David McCormick, Ann Ritter, Dennis B. McCormick, Laurie McCormick, David Cook McCormick, Jason McCormick, Helen Leaver, Edmund J. McCormick, Jr., Alfred S. Howes, Herman Markowitz, Bankers Trust, White & Case, LLP, and Catenacci, Markowitz, Delandri, Rosner & Co.

By the Court's order, the Stipulation was filed under seal and the terms of the Stipulation were subject to a confidentiality order.

We have come across an article in the October/November 2005 issue of *Absolute* magazine which unfortunately reveals confidential terms of the Stipulation. (A copy of the article is enclosed.)

We note that the *Absolute* article cites only two sources, a spokesman for Bankers Trust and Mrs. McCormick herself. We understand that the Bankers Trust spokesman who spoke with the *Absolute* reporter did not disclose any details of the Stipulation; indeed, he was unfamiliar with the terms of the Stipulation. We have also reached out to Edmund J.

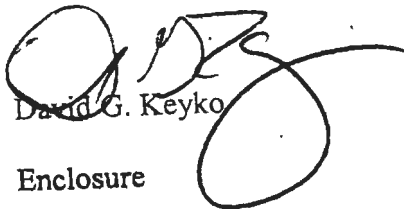
Exhibit 104

Surrogate Pagones
January 18, 2006
Page 2

McCormick's relatives who are parties to the settlement and were told that none of them spoke with the *Absolute* reporter. (We also attempted to reach the reporter, but she did not return our call.)

Although Bankers Trust's motion to provide Mrs. McCormick with a copy of the Stipulation subject to a confidentiality order (the "Confidentiality Motion") is still pending, we believe that Mrs. McCormick is familiar with the terms of the Stipulation. As noted in my Affidavit in support of the Confidentiality Motion, Mrs. McCormick's assistant Patrick Hanley saw a copy of the Stipulation prior to the time it was signed and approved.¹

Respectfully,



David G. Keyko

Enclosure

cc: Jason E. Bogli, Esq.
Robert Tiedemann, Esq.
Charles G. Berry, Esq.
Adria De Landri, Esq.
David P. Geis, Esq.
Brian J. Carey, Esq.

¹ The Confidentiality Motion, dated October 22, 2002, seeks an Order directing that: (i) Mrs. McCormick and any person advising, assisting, or representing her may be provided with a copy of the Stipulation; and (ii) the terms of the Stipulation shall be kept confidential by Mrs. McCormick and by her advisors, assistants, and representatives and shall not be disseminated to any other non-parties to the Stipulation.



PILLSBURY WINTHROP LLP

ONE BATTERY PARK PLAZA NEW YORK, NY 10004-1490 212.858.1000 F:212.858.1500

September 17, 2003

Anne C. Bederka, Esq.
212.858.1295

abederka@pillsburywinthrop.com

Raymond J. Dowd, Esq.
Dowd & Marotta LLC
277 Broadway, Suite 1310
New York, NY 10007David P. Geis, Esq.
Phipps & Geis
430 William Hilton Parkway
Suite 505
Hilton Head Island, SC 29926Re: Estate of Edmund J. McCormick

Dear Raymond and David:

In the course of a recent periodic review of New York's unclaimed funds database, Deutsche Bank has learned that the Office of the State Comptroller is holding an AT&T Corp. bond in the amount of \$4,127.60 which belongs to the Estate. (Earlier periodic reviews of the database did not reveal any assets listed under the name of Edmund J. McCormick.)

To collect the bond, the executors are required to execute the enclosed Estate Hold Harmless Form. Please arrange to have your respective clients fill out and sign the form where indicated, have the form notarized, and return the same to me for filing with the Office of Unclaimed Funds.

Once the funds are received, they will be deposited into the estate account.

Should you have any questions, please give me a call.

Sincerely,

Anne C. Bederka

Exhibit 105cc: Charles G. Berry, Esq.
Adria de Landri, Esq.
Robert E. Tiedemann, Esq.



Bankers Trust Company

The Private Bank
280 Park Avenue, New York, New York 10017

William J. Wilkie
Managing Director
Telephone: 212-454-2325

Mailing Address:
P.O. Box 1990, Church Street Station
New York, New York 10008

February 13, 1996

Suzanne McCormick
VIA FAX #: 407/585-9007

Dear Mrs. McCormick:

I am in receipt, via fax, of your letter to me dated February 9th as well as a copy of your letter of February 12th to Henry Zarzicki. Since both letters essentially address the same issue, this is in response to both of your letters.

As the result of the exchange of properties when the various partnerships were dissolved, your husband's estate is now the sole owner of Cooper River Manor. At the time of his death, Mr. McCormick owned an 80% interest in the Cooper River Manor Partnership. As was its purpose, this partnership conducted the business by owning and operating the Cooper River Manor Apartments. However, recorded title to the real estate remained solely in the name of Edmund J. McCormick. Presumably the partners made a business decision not to change title. I say presumably because the executors had no role in this decision, which could have been for whatever reason they deemed appropriate at the time. Constructively, however, Cooper River Manor was owned by the partnership regardless of how title was recorded. This fact is clearly supported by the tax returns filed on behalf of the partnership. Further, the federal estate tax return, which reflected the ownership of the properties, were scrupulously audited by the IRS.

At the time of acquisition, the deeds that were received by the estate were not recorded either. In this case the executors elected not to record the deeds in order to conserve the cost of recording fees. However, when the mortgage was renegotiated, it then became necessary to address the issue of title.

As you requested, we are again furnishing you with copies of the unrecorded deeds. Please note that you are a signatory, and therefore we see absolutely no reason why Mr. Zarzicki should certify them as true copies.

Mike Philip's refusal to be tape recorded at one of your meetings, I believe was simply his personal preference. Certainly I see nothing unusual, sinister or improper about his decision. Further, your suggestion that Mike's manager, Jeff Osmun, had something to hide is totally without foundation or merit.

Exhibit 106

Suzanne McCormick
February 13, 1995
VIA FAX

I previously answered the questions about the partnerships and the ownership of the properties. Your husband entered into partnerships with Ed McCormick, Jr. and for years prior to his death partnership returns were filed reflecting these arrangements. Moreover, the ownership of the properties were properly reflected on the Estate's federal estate tax return.

Sincerely,



William J. Wilkie
Managing Director

cc: Without Enclosures
David McCormick
Edmund McCormick, Jr.
Herman Markowitz
Winthrop Rutherford, Jr., Esq.

P.S. The original of this letter and the enclosures will be sent to you today by express mail.

Enclosures



Department of the Treasury
Internal Revenue Service

P.O. Box 4772

GRAND CENTRAL STATION

NEW YORK, N.Y. 10163

Date:

2/4/98

SUZANNE McCORMICK

Re: Your inquiry dated

231 CLINTON AVE

DOBBS FERRY, N.Y. 10522

Taxpayer identification number:

Tax period:

SUZANNE McCORMICK

After checking all records available it seems that the only years filed for all Employer Identification numbers were for years ending December 31, 1989 and possibly January 31, 1990. Sorry for delay.

Signature

Bernard K. Lemphig

Employee number

Title:

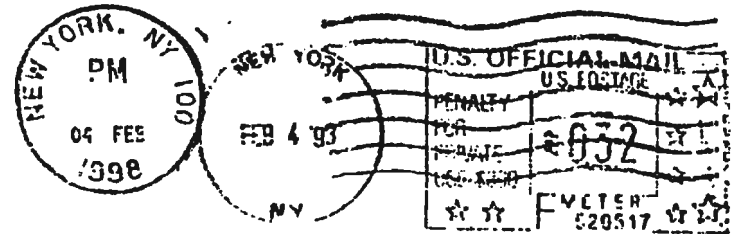
Taxpayer Service Specialist

Form 5260 (Rev. 6-89)

Exhibit 107

Internal Revenue Service
MANHATTAN DISTRICT
NEW YORK, N.Y. 10008

Official Business
Penalty for Private Use, \$300



Mrs Suzanne McCormick
231 Clinton Ave.
Dobbs Ferry, N.Y. 10522

10522/3000



Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 3000, New York, NY 10008

Date: FEB - 3 1997

Mrs. Suzanne McCormick
123 West Evans Lane
Manalapan, Florida 33462

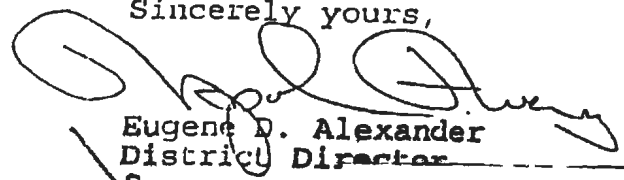
Dear Mrs. McCormick:

- Pursuant to our previous letter, dated October 24, 1996 (copy enclosed), we have obtained the file for the Estate of Edmund McCormick from the Service Center.

In your letter of May 28, 1996 to Commissioner Richardson, you expressed a concern regarding two partnerships, Cooper River Manor and Troy Court. Specifically you wanted to know whether the estate paid taxes based on 80 % or 100 % of the appraised value. Upon the audit of the estate tax return, copies of the partnership agreements and income tax returns were reviewed. As a result of the audit, the 20 % interests in Cooper River Manor and Troy Court, which had been excluded from the gross estate on the initial return, were added back resulting in adjustments to the gross estate of \$330,214.77 and \$117,062.31, respectively. In the December 22, 1992 Report of Examination Changes which was sent to you with our previous correspondence, these items are listed on Form 886-A "Explanation of Items" as Schedule F Item 37 (Cooper River) and Item 43 (Troy Court).

If you would still like to review our file, we invite you to come to our office and inspect the file either in person or through your named representative. Enclosed please find Form 2848, Power of Attorney, should you wish to appoint a representative. A mutually convenient appointment may be made by contacting Estate Tax Attorney Harvey Weiss at (212) 436-1112. Please contact us by February 28, 1997. If we do not hear from you by that date, we will assume you no longer wish to review the file.

Sincerely yours,


Eugene D. Alexander
District Director

Enclosure

Exhibit 108

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
IN THE MATTER OF THE APPLICATION OF :
BANKERS TRUST COMPANY OF NEW YORK : INDEX NO: 99/121823
(f.k.a DEUTSCHE BANK TRUST COMPANY) and : PART 3
BANKERS TRUST COMPANY, : (COZIER, J)
:
Petitioners, :
:
For substitution of fiduciary :
relationships pursuant to New York :
Banking Law §154 :
-----X

REPORT OF THE GUARDIAN AD LITEM
WITH RESPECT TO PETITIONERS' APPLICATION

This report is submitted on behalf of Robert F. Van Lierop, Esq., the guardian ad litem appointed by this court (the "Guardian") to represent the interests of beneficiaries in trust who are entitled to notice of the above-referenced proceeding but whose whereabouts are unknown, and the interests of those persons who otherwise ought to have their interests represented. By Order entered by the Court on the record of this proceeding on December 17, 1999, the Court directed the Guardian to submit his Report concerning this matter on January 28, 2000. The Guardian has concluded, based upon his review of all the relevant facts and circumstances, and subject to the conditions set forth below, that Petitioners' application for the substitution of Bankers Trust Company of New York for Bankers

Exhibit 109

Dated: New York, New York
January 27, 1999

Jonathan D. Bassett

EXHIBIT D

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
WASHINGTON, D.C.

EUROPE.
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP
1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: (212) 819-8700

ASIA
ALMATT
ANRARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
SINGAPORE
TOKYO

MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY
SAO PAULO

AFRICA
JOHANNESBURG

December 3, 1999

HAND DELIVERY

Jonathan D. Bassett, Esq.
Van Lierop, Burns & Bassett, LLP
320 Convent Avenue
New York, NY 10031-6331

Re: Application of Bankers Trust Company of New York
Index No. 99/121823

Dear Mr. Bassett:

Thank you for your letter of November 24. I enclose the following documents requested in your letter:

1. A written description of the process used to identify persons entitled to notice of the proceeding.
2. A detailed description of the available information regarding the "unknowns" listed in Exhibit C to the Petition and the steps taken to identify and contact the beneficiaries of those accounts.
3. Copy of Press Release dated March 11, 1999 issued by the office of the United States Attorney for the Southern District of New York, together with copies of the Information, the Plea Agreement and the Allocation.
4. Copy of the Exemption issued by the Department of Labor, as printed in the Federal Register for Monday, June 7, 1999.

As soon as the Stipulation regarding the release of documents which are covered by the Order for the sealing of Exhibits B, C and E has been signed by the Judge, we will send you copies of those documents.

On behalf of Bankers Trust, I can confirm the following, as requested in your letter:

Exhibit 110

EXHIBIT D

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

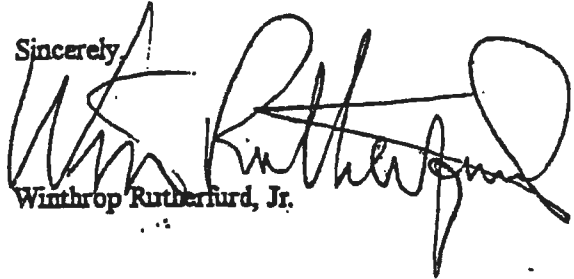
Jonathan D. Bassett, Esq.
Page 2

(a) The applicability of the safeguards agreed to in the criminal proceedings to the subject accounts would not be diminished by the granting of the Petition.

(b) The persons entitled to notice of this proceeding are not included within the definition of any proposed or certified class of plaintiffs in any pending or settled civil litigation against Bankers Trust related to the guilty plea.

(c) The accounts proposed to be transferred if the Petition is granted are not entitled to reimbursement or other compensation as a result of the guilty plea or any related agreement or undertaking by Bankers Trust.

Sincerely,

A handwritten signature in black ink, appearing to read "Winthrop Rutherford, Jr.", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

Winthrop Rutherford, Jr.

WR:jc

Enclosures

cc: Troland S. Link, Esq.
Philip H. Schaeffer, Esq.

EXHIBIT F

30360

Federal Register / Vol. 64, No. 108 / Monday, June 7, 1999 / Notices

Dated: May 28, 1999.
John H. King,
Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.
[FR Doc. 99-14236 Filed 6-4-99; 8:45 am]
BILLING CODE 4470-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-10747]

Proposed Exemption; Bankers Trust
Company, BT Alex Brown
Incorporated, and Deutsche Bank AG

AGENCY: Pension and Welfare Benefits
Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a
notice of pendency before the
Department of Labor (the Department) of
a proposed exemption from certain of
the prohibited transaction restrictions of
the Employee Retirement Income
Security Act of 1974 (the Act) and/or
the Internal Revenue Code of 1986 (the
Code).

Written Comments and Hearing Request

All interested persons are invited to
submit written comments or request for
a hearing on the pending exemption,
within 33 days from the date of
publication of this Federal Register
Notice. Comments and requests for a
hearing should state: (1) the name,
address, and telephone number of the
person making the comment or request,
and (2) the nature of the person's
interest in the exemption and the
manner in which the person would be
adversely affected by the exemption. A
request for a hearing must also state the
issues to be addressed and include a
general description of the evidence to be
presented at the hearing.

ADDRESSES: All written comments and
request for a hearing (at least three
copies) should be sent to the Pension
and Welfare Benefits Administration,
Office of Exemption Determinations,
Room N-5649, U.S. Department of
Labor, 200 Constitution Avenue, N.W.,
Washington, D.C. 20210. Attention:
Application No. D-10747. The
application for exemption and the
comments received will be available for
public inspection in the Public
Documents Room of Pension and
Welfare Benefits Administration, U.S.
Department of Labor, Room N-5507,
200 Constitution Avenue, N.W.,
Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemption
will be provided to all interested
persons in the manner agreed upon by
the applicant and the Department
within 3 days of the date of publication
in the Federal Register. Such notice
shall include a copy of the notice of
proposed exemption as published in the
Federal Register and shall inform
interested persons of their right to
comment and to request a hearing.
SUPPLEMENTARY INFORMATION: The
proposed exemption was requested in
an application filed pursuant to section
408(a) of the Act and/or section
4975(c)(2) of the Code, and in
accordance with procedures set forth in
29 CFR Part 2570, Subpart B (55 FR
32836, 32847, August 10, 1990).
Effective December 31, 1978, section
102 of Reorganization Plan No. 4 of
1978 (43 FR 47713, October 17, 1978)
transferred the authority of the Secretary
of the Treasury to issue exemptions of
the type requested to the Secretary of
Labor. Therefore, this notice of
proposed exemption is issued solely by
the Department.

The application contains
representations with regard to the
proposed exemption which are
summarized below. Interested persons
are referred to the application on file
with the Department for a complete
statement of the facts and
representations.

Bankers Trust Company, New York,
New York; BT Alex. Brown
Incorporated; Deutsche Bank AG

[Application No. D-10747]

The Department is considering
granting an exemption under the
authority of section 408(a) of the Act
and section 4975 of the Code and in
accordance with the procedures set
forth in 29 CFR 2570, subpart B (55 FR
32836, 32847, August 10, 1990).

Section I. Bankers Trust Company

If the exemption is granted, Bankers
Trust Company shall not be precluded
from functioning as a "qualified
professional asset manager" pursuant to
Prohibited Transaction Exemption 84-
14 (49 FR 9494, March 13, 1984) (PTE
84-14) for the period beginning on the
date of sentencing with respect to the
charges to which Bankers Trust
Company pled guilty on March 11, 1999
and ending five years¹ from the date of
publication of the final exemption in the
Federal Register, solely because of a

¹ If granted, this exemption will extend for a
period of approximately five years. However,
Bankers Trust Company may, prior to its expiration,
apply for an extension of the exemption.

failure to satisfy section I(g) of PTE 84-
14 as a result of the conviction of
Bankers Trust Company for felonies
described in the March 11, 1999 felony
information (the Information) entered in
the U.S. District Court for the Southern
District of New York, provided that:

(a) this exemption is not applicable if
Bankers Trust Company becomes
affiliated with any person or entity
convicted of any of the crimes described
in section I(g) of PTE 84-14; and

(b) this exemption is not applicable if
Bankers Trust Company is convicted of:
any of the crimes described in section
I(g) of PTE 84-14, other than those
felonies discussed in the Information;

(c) the custody operations that were
part of Bankers Trust Company at the
time of the March 11, 1999 information,
and which have subsequently been
reorganized as part of Global
Institutional Services (GIS), are subject
to an annual examination of its
abandoned property and escheatment
policies, procedures and practices by an
independent public accounting firm.

The examination required by this
condition shall determine whether the
written procedures adopted by Bankers
Trust Company are properly designed to
assure compliance with the
requirements of ERISA. The annual
examination shall specifically require a
determination by the auditor as to
whether the Bank has developed and
adopted internal policies and
procedures that achieve appropriate
control objectives and shall include a
test of a representative sample of
transactions, fifty percent of which must
involve ERISA covered plans, to
determine operational compliance with
such policies and procedures. The
auditor shall issue a written report
describing the steps performed by the
auditor during the course of its
examination. The report shall include
the auditor's specific findings and
recommendations. This requirement
shall continue to be applicable to the
custody operations that were part of
Bankers Trust Company as of March 11,
1999, notwithstanding any subsequent
reorganization of the custody operation
function during the term of the
exemption.

(d) With respect to the independent
audit report described in section I(c)
above:

(1) Bankers Trust Company shall
provide notice to the Department of any
instances of the Bank's noncompliance
with the written policies and
procedures reviewed by the auditor
within 10 business days after such
noncompliance is determined by the
auditor notwithstanding the fact that the
examination may not have been

completed as of that date. Upon request, the auditor shall provide the Department with all of the relevant workpapers reflecting the instances of noncompliance. The workpapers should identify whether and to what extent the assets of ERISA plans were involved in the instances of noncompliance, and

(2) Any information relating to the Bank's noncompliance with the written policies and procedures that is required by Federal and/or state banking authorities to be reported to the state and/or Federal banking agencies shall also be reported by Bankers Trust Company to the Department within the same time frames that such information is otherwise required to be reported to those agencies.

(e) The annual examination described in section I(c) above will be provided to the Department not later than 90 days following the 12 month period to which it relates, and will be unconditionally available for examination by any duly authorized employee or representative of the Department, Internal Revenue Service, Securities and Exchange Commission or Department of Justice or other relevant regulators and any fiduciary of a plan for which Bankers Trust Company performs services.

Section II

If the exemption is granted, BT Alex. Brown Incorporated and its subsidiaries and Deutsche Bank AG shall not be precluded from functioning as a "qualified professional asset manager" pursuant to PTE 84-14 for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company pled guilty on March 11, 1999 and ending ten years from the date of publication of the final exemption in the Federal Register, solely because of a failure to satisfy section I(g) of PTE 84-14 as a result of an affiliation with Bankers Trust Company, provided that:

(a) this exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84-14; and

(b) this exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG is convicted of any of the crimes described in section I(g) of PTE 84-14.

Section III. Definitions

(a) For purposes of this exemption, the term "Bankers Trust Company" includes Bankers Trust Company and any entity that was affiliated with Bankers Trust Company prior to the

date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, other than BT Alex. Brown Incorporated and its subsidiaries.

(b) For purposes of this exemption, "Deutsche Bank AG" includes Deutsche Bank AG and any entity that was affiliated with Deutsche Bank AG prior to the date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, and any future affiliates, other than Bankers Trust Company, as defined in subsection (a).

(c) The term "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and,

(4) Any employee or officer of the person who—

(A) is a highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person) or,

(B) has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Summary of Facts and Representations

1. Bankers Trust Company is a New York banking corporation and a commercial bank which provides a wide range of banking, fiduciary, recordkeeping, custodial, brokerage and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide. Bankers Trust Company is wholly owned by Bankers Trust Corporation, a bank holding company established in 1965 under the laws of the State of New York. As of December 31, 1997, Bankers Trust Corporation and its affiliates had consolidated assets of \$140,102,000,000 and total stockholders' equity of \$5,708,000,000.

2. The corporate entity known as BT Alex. Brown Incorporated resulted from the September 1, 1997 merger of Alex. Brown Incorporated with a Bankers Trust Corporation subsidiary (the new entity was renamed BT Alex. Brown Holdings Incorporated). Alex. Brown & Sons Incorporated, a U.S. registered

broker-dealer subsidiary of Alex. Brown Incorporated, was merged into BT Securities Corporation (the new entity was renamed BT Alex. Brown Incorporated). The merged broker-dealer, BT Alex. Brown Incorporated, is a wholly-owned subsidiary of Bankers Trust Corporation. Its predecessor, Alex. Brown & Sons Incorporated was not affiliated with Bankers Trust Corporation when the conduct which resulted in the Plea Agreement took place. BT Securities Corporation has never been a subsidiary of Bankers Trust Company.

3. In the second quarter of 1999, Bankers Trust Company expects that Bankers Trust Corporation will be acquired by Deutsche Bank AG, a bank organized under the laws of Germany.

4. On March 11, 1999, the United States Attorney for the Southern District of New York filed a three-count felony information (the "Information") in the United States District Court for the Southern District of New York (the "Court") alleging violations of 18 U.S.C. § 1005. The Information charges Bankers Trust Company with making false entries on its books and records as a result of the conduct of certain employees in 1994-8 in Bankers Trust's processing services businesses. The conduct involved the transfer to reserve accounts and to income of aged credit items that should have been paid to customers or other third parties, or paid to state abandoned property authorities. Some of these aged credit items represented assets of ERISA covered employee benefit plans. On the same day, Bankers Trust Company entered a plea of guilty to the charges in the Information pursuant to a written plea agreement (the "Plea Agreement"). In the Plea Agreement, Bankers Trust Company agreed to pay a fine of \$60 million and placed that amount in escrow pending sentencing. The Plea Agreement provides that sentencing will be postponed to a date on or before June 21, 1999. Bankers Trust Company has cooperated with the appropriate authorities in the investigation.

5. Bankers Trust Company represents that although none of the unlawful conduct involved its (or its affiliates) investment management activities, the criminal conduct described above would preclude each component of Bankers Trust Company, BT Alex. Brown, Bankers Trust Australia Funds Limited, and other affiliated investment managers from serving as a "qualified professional asset manager" (QPAM) pursuant to PTE 84-14. PTE 84-14 provides broad relief from the prohibited transaction provisions of ERISA and the Code for transactions

between parties in interest with respect to a plan and an investment fund in which the plan has an interest when such fund is managed by a QPAM, the QPAM makes the decision to enter into the transaction, and the other conditions of the exemption are met. Section I(g) of PTE 84-14 precludes a person who otherwise qualifies as a QPAM from serving as a QPAM if such person or an affiliate² thereof has, within the ten years immediately preceding the transaction been either convicted or released from imprisonment, whichever is later, as a result of certain specified criminal activity.

6. Bankers Trust Company represents that the clientele it serves includes large employee benefit plans subject to the Act. They maintain that, given the size and number of the plans which Bankers Trust Company represents, the large number of financial service providers engaged by such plans, the breadth of the definition of party in interest under the Act, and the array of services offered by Bankers Trust Company, it would not be uncommon for a plan for which Bankers Trust Company currently serves as a QPAM to engage in a transaction which may involve a party in interest.

7. Bankers Trust Company states that other statutory and class exemptions exist which cover purchases and sales of securities from U.S. banks or broker-dealers; securities lending to U.S. banks or broker-dealers; mortgage pool investment trusts; investment in short-term instruments such as repurchase agreements (with a bank supervised by a State or by the United States or a broker-dealer registered under the Securities Exchange Act of 1934 or a dealer in government securities who reports daily to the Federal Reserve Bank of New York); bankers' acceptances in banks supervised by a State or by the United States, commercial paper or deposits of a bank supervised by a State or by the United States. Bankers Trust notes, however, that without the relief provided by PTE 84-14, a plan advised by Bankers Trust Company or its affiliates would be unable to invest in real estate, mortgages, or commodities, to engage in purchases and sales of securities from

and to foreign banks or broker-dealers, to lend securities to foreign banks and broker-dealers, or to invest in deposits of foreign banks, if such transactions involve a party in interest.

8. Bankers Trust Company requests an exemption to enable it and its current and future affiliates, to function as QPAMs despite their failure to satisfy section I(g) of PTE 84-14 as a result of the judgment of conviction to be entered against Bankers Trust Company.³ The proposed exemption is requested on behalf of Bankers Trust Company and its affiliates. The proposed exemption is also requested on behalf of such entities that may become affiliated with Bankers Trust Company or its corporate successor(s), including but not limited to Deutsche Bank AG and its affiliates. The transactions covered by the proposed exemption would include the full range of transactions that can be executed by investment managers who qualify as QPAMs pursuant to PTE 84-14 and satisfy the conditions contained therein. Deutsche Bank AG represents that, subsequent to the acquisition of Bankers Trust Corporation, it will assume responsibility on behalf of Bankers Trust Company for compliance with all of the conditions of the proposed exemption and all of the commitments contained in the Bankers Trust Company exemption application, notwithstanding any subsequent reorganization of Bankers Trust Company or Bankers Trust Corporation. Thus, for example, Deutsche Bank AG has agreed to ongoing responsibility for the annual examination of the custody operations that were part of Bankers Trust Company at the time of the March 11, 1999 information and for any reporting to the Department in connection with that examination.

9. According to Bankers Trust Company, the conduct relating to the Plea Agreement was discovered by the Bank itself and brought to the attention of the U.S. Attorney and the banking regulators. Bankers Trust Company, on its own initiative, engaged Arthur Andersen & Co., one of the largest independent accounting firms in the world, with substantial experience and expertise with banking and financial institutions, to undertake a review of the Client Processing Services unit, which has been now reorganized as part of

Global Institutional Services ("GIS"). Arthur Andersen spent over 100,000 hours on the investigation. Arthur Andersen identified transactions which had been recorded to income. These transactions have since been reversed. Bankers Trust has substantially completed the process of compensating any clients or third parties affected by these transactions or escheating unidentified funds to the appropriate state as abandoned property.

10. In addition, Bankers Trust Company represents that the law firm of Sullivan & Cromwell was engaged to aid in the investigation. The Senior Control Officer Group (SCOG)⁴ in consultation with Sullivan & Cromwell determined the individuals that would be evaluated for potential discipline. This determination was made as a result of a review of hundreds of thousands of e-mail messages and transaction records and interviews of dozens of Bankers Trust Company employees. SCOG and Sullivan and Cromwell met to discuss the issues raised by the interviews and documents for each employee and jointly reached a recommendation regarding the appropriate discipline for each employee.

11. Bankers Trust Company represents that by the end of the investigation, 13 employees who were in various ways related to the events that were the subject of the Information had resigned and 27 other employees received other forms of disciplinary action. None of the individuals responsible for the action upon which the information is based are currently employed by Bankers Trust Company. In addition to asking employees to resign, the disciplinary actions taken were, reassignment out of the fiduciary business, compensation penalties, reprimand or mandatory retraining. Bankers Trust Company determined the level of discipline that was appropriate based on the following criteria: the employee's position during the relevant conduct; the employee's relevant educational and professional background; the employee's degree of involvement with the transaction, and the nature of the transaction. Bankers Trust Company believes that it has identified and considered all individuals who should have been disciplined in this matter.

Bankers Trust Company represents that it has undertaken to appropriately identify and discipline all individuals involved in the conduct which gave rise

² For purposes of section I(g) of PTE 84-14, an "affiliate" of a person is defined, in relevant part, as "any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person . . ." (PTE 84-14, section V(d)). Bankers Trust Corporation, Bankers Trust Company, its sister companies, and its subsidiaries would be treated as affiliates under this definition. Deutsche Bank AG, and its affiliates, will be treated as affiliates under this definition as of the effective date of its acquisition of Bankers Trust Corporation, the parent of Bankers Trust Company.

³ Section I(g) provides that for purposes of that subsection, "a person shall be deemed to have been 'convicted' from the date of the judgement of the trial court, regardless of whether that judgement remains under appeal." Until an appealable order is entered, there is no judgement of conviction under section I(g). Bankers Trust represents that an appealable order will be entered at sentencing, which is scheduled for June 21, 1999.

⁴ Bankers Trust Company states that SCOG is comprised of individuals who operate completely independent of any business line, including CFS, and had no involvement with the transactions under investigation.

to the guilty plea by Bankers Trust Company, and similar conduct not covered by the plea, all of which was investigated by Bankers Trust Company in 1996 and 1997. This conduct was found by Bankers Trust Company to involve taking unclaimed funds into income of Bankers Trust Company without adequate documentation that such funds belonged to Bankers Trust Company, as well as other accounting practices designed to misstate revenue or expenses of Bankers Trust Company for a particular time period. In addition to steps already taken, Bankers Trust Company agrees that it will, upon request of the Pension and Welfare Benefits Administration (PWBA), appoint and compensate a Special Master acceptable to PWBA to review the behavior of those individuals (and any discipline which has already been imposed on them) who remain at the Bankers Trust Company (its successors or assigns), when the proceeding by the Special Master commences who fall into any of the following categories:

(1) Persons with respect to whom a presentation was made to a disciplinary review committee of Bankers Trust Company based on any allegation that an individual was, directly or indirectly, involved in claiming funds for Bankers Trust Company without adequate documentation that such funds belonged to Bankers Trust Company;

(2) Persons selected by PWBA who were involved, directly or indirectly, in any of the above described misconduct, whether or not specifically investigated by Bankers Trust Company;

(3) Persons selected by PWBA who were involved in conducting, implementing, supervising, or overseeing the investigative and disciplinary process on behalf of Bankers Trust Company designed: (a) to assure that all improper accounting was appropriately corrected; and (b) to discipline individuals involved in claiming funds for Bankers Trust Company without adequate documentation that such funds belonged to Bankers Trust Company or misstating income or expenses of Bankers Trust Company; and

(4) Persons selected by PWBA who were involved in responding to inquiries from any governmental agency regarding allegations that Bankers Trust Company claimed funds without adequate documentation that such funds belonged to Bankers Trust Company, failed to appropriately escheat abandoned funds, or misstated income or expenses of Bankers Trust Company.

If a Special Master is requested by PWBA, the Bankers Trust Company will

submit to PWBA for its approval a proposed engagement letter relating to the scope of the review which shall include, at a minimum, the following requirements:

(a) The Special Master shall determine conclusively on behalf of Bankers Trust Company, what discipline for each such individual would be appropriate, up to and including dismissal to assure that their discipline was adequate to deter future misconduct by the individual and others in similar positions, and to assure that no such individual, found by the Special Master to be untrustworthy, would be involved, directly or indirectly, in handling assets subject to the Employee Retirement Income Security Act;

(b) The Special Master shall report to PWBA regarding any information that comes to the attention of the Special Master, in the course of performing his other duties, which suggests that the continued presence of any person as an employee or contractor of Bankers Trust Company might imperil the safekeeping or appropriate investment of employee benefit plan assets covered by the Act, or any other such information which the Special Master, in his discretion, believes would be useful to PWBA in performing its mission;

(c) The Special Master shall, in addition, provide to PWBA, upon request, any materials submitted by or on behalf of Bankers Trust Company to the Special Master or by the Special Master to Bankers Trust Company;

(d) To the extent permitted by law, Bankers Trust Company shall provide the Special Master with all documents concerning the behavior of such individuals as the Special Master, in his sole discretion, shall deem relevant, and shall require all employees and contractors to respond fully and completely to all inquiries by the Special Master as a condition of their employment by Bankers Trust Company;

(e) Bankers Trust Company further will promptly impose any discipline found appropriate by the Special Master; and

(f) The Special Master will use best efforts to complete his assignment within a specified period of time, but his failure to do so may not be grounds for dismissal or failure by Bankers Trust Company to honor all terms of the engagement letter, unless PWBA agrees in writing to such dismissal or failure to comply. Bankers Trust Company further agrees that any individual who has resigned, been dismissed, or transferred following involvement in claiming funds for Bankers Trust Company

without adequate documentation that such funds belonged to Bankers Trust Company or misstating income or expenses of Bankers Trust Company, so that they are not presently involved in the handling of ERISA covered employee benefit plan assets on behalf of Bankers Trust Company, will not in the future be permitted by Bankers Trust Company to handle such assets on its behalf as an employee or contractor. Similarly, Bankers Trust Company agrees that any individual who was disciplined in connection with the conduct described above, but who was not, at the time of their discipline, involved in handling employee benefit plan assets subject to the Act, will not in the future be permitted to handle such assets on behalf of Bankers Trust Company. Notwithstanding the agreements in this paragraph, Bankers Trust Company may, within 60 days of retaining the Special Master, with notice to PWBA, request that the Special Master review the conduct of any individual whose involvement with employee benefit plan assets is proscribed by this paragraph. Upon request for such review, the Special Master shall determine whether the limitations imposed by this paragraph should be modified, using the same standards which he would use in determining appropriate discipline for an individual described in numbered paragraphs (1)-(4). In performing this duty, the Special Master shall be given the same cooperation as he would receive in reviewing the discipline of an individual described in numbered paragraphs (1)-(4).

12. Bankers Trust Company further represents that substantial training has been provided to 2000 employees thus far. The training is in the process of being provided to the remainder of GIS employees and will be given monthly thereafter for new employees. As part of its enhanced process to establish and maintain a proper control environment, Bankers Trust represents that it developed a training plan to ensure that employees are aware of the important responsibilities for the proper handling of client funds. The "Business Practices" course was developed with Arthur Andersen and taught jointly with them. The full day's course presents the legal and regulatory issues and responsible business practices for everyday operations, including fiduciary requirements of ERISA and the appropriate method for dealing with suspected misconduct.

13. Bankers Trust Company represents that various corrective measures have been taken by it to help ensure that conduct such as that

involved in the Plea Agreement will not recur. New controls have been implemented, and a risk management infrastructure has been developed with risk managers assigned to each business area reporting directly to the Corporate Controller.

14. Arthur Andersen provided recommendations to the Bank for its consideration in augmenting the controls applicable to its processing business. In the area of organization, Arthur Andersen recommended that controllers for each product line in GIS report to a corporate controller, who reports directly to the Chief Financial Officer of the Bank. In Arthur Andersen's view, segregation of the accounting control function from operations is paramount to a strong control environment. Bankers Trust Company agreed, creating controllers for each business in GIS, who report to the CFO.

15. Arthur Andersen also recommended that the Bank adopt a centralized escheatment process. In response to this recommendation, a separate unit of Arthur Andersen with expertise in abandoned property was engaged to assist in assessing the existing control processes affecting abandoned property and escheatment. Bankers Trust Company represents that as a result of this assessment, controls over aged credit items and escheatment procedures have been enhanced. Specifically, Bankers Trust Company has created an Abandoned Property Officer, who is responsible for the Bank's escheatment filings. The Abandoned Property Officer coordinates with the Legal and Compliance Department of the Bank to provide guidance to the business lines and to provide clear guidelines for administering the escheatment process. Arthur Andersen also recommended that each business unit assign an individual to be responsible for the escheatment process in their respective areas and detail their responsibilities and reporting lines with formal procedures established for escheating aged items. Arthur Andersen further recommended that enhanced standards be established for documenting escheated items and that managers and operations employees be trained on internal policy and procedures. Finally, in the area of organization, Arthur Andersen recommended that procedures providing for proper accounting and disposition of credits be established and that training be provided in the accounting for those items. Bankers Trust Company represents that it has created an entire manual on escheatment policies and

procedures, and all employees responsible for making decisions on accounting and escheatment have been trained in these procedures and will continue to be trained periodically in these areas.

16. In the area of internal audit, Arthur Andersen recommended that audit procedures be revised to ensure that aged items will be formally tracked and followed until any of the issues concerning the items are resolved properly. Arthur Andersen recommended that internal audit employees be formally trained regarding escheatment laws and regulations and that internal audit personnel focus on the operational controls and proper procedures relating to abandoned property. Bankers Trust Company represents that it has created new audit procedures for internal audit staff in these areas. Internal audit staff have received Certified Trust Audit training from an outside organization and will be trained in Bankers Trust Company's abandoned property procedures.

17. In the area of in-house legal services, Arthur Andersen recommended that there be a corporate policy for the escheatment of abandoned property which is approved by business operations, corporate controllers and the Legal Department before adoption, with procedures to provide clear guidance on referral of issues to the Legal Department respecting proper treatment and escheatment of aged items. Since these recommendations were made, an official "Abandoned Property Policy" has been adopted, and procedures have been developed on escheatment which focus on proper referrals to the Legal Department.

18. Arthur Andersen also made recommendations regarding the function of the controllers group, including the development of a reporting mechanism for the aging of debits and credits; the prompt return of property to the rightful owners, once identified; and the development of more formal procedures for researching debits and credits. Bankers Trust Company represents that management information systems have been developed in response to these recommendations, which allow both the controllers and the business line operations management to track the research and identification of debits and credits and evaluate the process in terms of age, size and other relevant factors. Also in the controllers' area, Arthur Andersen recommended that the level of suspense items be reduced and procedures developed to research outstanding items. In this connection, Arthur Andersen recommended that the Bank

improve its tracking and promptness of reconciling items, with better descriptions of such items and clear responsibility for reconciling these items. In response to this recommendation, Bankers Trust Company represents that it has significantly upgraded the level and review of operational control indicators. Specifically, key control indicators have been defined and developed across all business areas. Monthly control management information systems (MIS) packages have been developed in each business unit which are reviewed at a monthly control meeting chaired by the GIS Business head and attended by business unit heads, controllers, compliance and legal personnel and internal audit staff.

19. With respect to ERISA plans, Arthur Andersen recommended that procedures and policies be developed concerning checks paid to plan participants that have not been cashed by the participant and that an independent group, such as compliance, be established to monitor all customer complaints on a centralized basis, with a follow-up audit to determine whether various aspects of client agreements in connection with billing, return of excess funds, etc. are being complied with. Bankers Trust Company represents that it has instituted policies to insure that assets belonging to employee benefit plans do not reach the point of being treated as abandoned property to be escheated. In this connection, Bankers Trust Company has promulgated policies and procedures for the Retirement Services Group within GIS which, among other things, require that plan sponsors receive a monthly list of uncashed checks older than 45 days; that plan sponsors are reminded that it is the plan sponsor's obligation and responsibility to find missing participants, and that plan sponsors are specifically requested to provide directions on amounts outstanding for more than one year. Check ledgers and class action records are retained by the Bank for 15 years. Plans which terminate their relationship with Bankers Trust Company will have any amounts still outstanding after six months forwarded to their successor trustees. With respect to terminated plans, Bankers Trust Company will forward any amounts still outstanding after six months to the responsible plan fiduciary. In addition, Bankers Trust Company represents that it has established policies which require complaints to be brought to the attention of a supervisor immediately and tracked in an MIS system so that

management can evaluate the aging and resolution of complaints. The policies further require that, if not resolved promptly, the complaint must be elevated to a more senior manager, or to Compliance and the Legal Department if the issue is out of the ordinary course of daily operations.

20. In the area of ownership and accountability of customer accounts, Arthur Andersen recommended that each business area develop a chart of accounts, identifying the responsible officer, the proof schedule, approval levels for account openings, closings and changes, with procedures for maintenance of proper documentation for customer and beneficiary amounts and controls on unclaimed amounts. Bankers Trust Company represents that it has undergone a comprehensive account review. Over 25,000 general ledger accounts have been closed, and new procedures and control reports were developed to identify inactive, obsolete and erroneous accounts. In addition, a chart of accounts was established through the use of a centralized account database. All accounts have clear ownership, purpose, and account descriptions. With respect to each account, an administrator is responsible for verifying on a monthly basis that the account is being used according to its official purpose, is being reconciled on a regular basis and is still active. On a going-forward basis, senior management receives regular MIS reports regarding account activity. In addition, Bankers Trust Company represents that procedures are in place to close inactive or dormant accounts on a regular basis.

21. Arthur Andersen recommended better procedures for handling class actions and tax refunds, and Bankers Trust Company represents that it is enhancing its current policies to establish additional procedures for preservation of the names of beneficial holders of securities that may result in class action payments, both for existing plans and for terminated plan relationships. In addition, Bankers Trust Company has revised its procedures to maintain canceled check reports and ledgers for 15 years. Bankers Trust Company further represents that escheatment records are kept indefinitely.

22. In addition to the review conducted by Arthur Andersen, Bankers Trust Company engaged KPMG, an international accounting firm, who are the Bank's auditors, to perform an independent risk assessment and controls review across GIS. Bankers Trust Company represents that this review had several objectives: (1) to

provide an examination of the various control enhancement initiatives that were underway (e.g. account usage); (2) to provide an assessment of the risk identification and control mechanisms across GIS business with, as necessary, control improvement recommendations; and to evaluate the control environment and risk management strategies including recommendations on risk management, legal and compliance structure.

23. Following this review, several control improvements were recommended throughout the various business units. Bankers Trust Company represents that detailed plans were established to implement the improvements with critical/mandatory improvements implemented by year-end 1998. In addition, recommendations to establish a GIS risk management function were implemented by the appointment of a GIS risk manager. In order to provide for an ongoing self-assessment of the control environment, Bankers Trust Company notes that a GIS-wide risk database was created. This database houses all key GIS operational processes and control points and is maintained and updated by the business unit risk managers as operational processes and control points are altered or changed.

24. KPMG has confirmed that based on its involvement over the past two years with respect to the GIS business, Bankers Trust Company has implemented policies and procedures to address the mandatory gaps identified in the risk assessment review performed by KPMG, as well as the recommendations made by Arthur Andersen at the conclusion of their forensic investigation. KPMG also represents that Bankers Trust Company continues to make substantial progress working toward a "best practices" control environment and that progress regarding remaining control enhancement initiatives continues to be closely monitored at the monthly control review meetings conducted since October, 1997 which all senior management in the GIS business.

25. Bankers Trust Company is subject to the continuing supervision of both the New York State Banking Department and the Federal Reserve Bank of New York. The Federal Reserve Bank of New York (FRBNY) and the New York Banking Department conduct joint annual examinations of the Bank, including its fiduciary operations. As part of its supervision, the New York State Department of Banking entered into a settlement agreement with Bankers Trust Company, pursuant to which Bankers Trust Company agreed to

pay \$3.5 million to the State of New York. It reached this agreement based on the fact that Bankers Trust Company had retained outside counsel and an independent accounting firm to assist the Bank in performing a comprehensive forensic and diagnostic review of the activities of its custody and processing businesses during the relevant period and based on that review, had taken the following remedial steps: (1) the Bank adopted improved policies and procedures relating to accounting practices, risk assessment, compliance and internal control procedures, and management information reporting; (2) the Bank adopted new training programs for its personnel in this area with respect to business practices and responsible decision making; (3) the Bank replaced and supplemented personnel in this area, including the replacement of the head of the business group and the head of the areas specifically involved in the offending behavior; (4) the Bank created an independent risk management and control function that reports outside the business line to the senior management in charge of corporate risk management and control; (5) the Bank enhanced its internal audit functions including expansion of the audit scope and increasing the size of the audit staff; (6) the annual external audit of the business was extended to include a review of the improved policies and procedures detailed in paragraph one above; and (7) the Bank commenced and substantially completed appropriate restitution of the amounts involved. In addition to the payment to the State of New York, Bankers Trust Company committed to maintaining the new policies, procedures and internal audit scope and frequency described above and to make no material changes therein without the prior approval of the New York State Banking Superintendent and to provide such periodic reports to the Superintendent and to the Bank's Board of Directors as they may request regarding compliance with the new policies and procedures. The New York State Banking Department concluded, in a letter dated March 11, 1999 to Frank Newman, Chairman of Board of Bankers Trust Company, that based on the actions taken by the Bank to date, "Bankers Trust has put into place the appropriate controls with respect to the management of the affected businesses".

26. The Federal Reserve Bank of New York also provided information in a written submission to assist the Department in its review of Bankers Trust Company exemption application. The FRBNY has a statutory obligation to

inspect the books and records of Bankers Trust Company and monitor its internal controls to ensure that adequate policies and procedures are in place with respect to fiduciary obligations. See 12 U.S.C. 248(a), 325 and 1831m. The FRBNY carries out its responsibility to examine Bankers Trust Company pursuant to delegated authority from the Board, and shall continue to do so. Under the Plea Agreement entered in the matter of *United States v. Bankers Trust Company*, 99 Cr. 250 (S.D.N.Y. Mar 11, 1999), the Bank has submitted to the FRBNY for review and approval "the written internal compliance procedures which the Bank has already implemented for the strengthening and maintenance of its records, systems and internal audit and controls, in order to ensure that such misconduct will not recur in the future."

27. As a condition of the proposed exemption, Bankers Trust Company has agreed to an annual examination of its custody operations as it relates to abandoned property and escheatment matters. The examination is to be undertaken by an independent public accounting firm³ and will be designed to assist in determining whether the written procedures adopted by the Bank are properly designed to assure compliance with the requirements of ERISA. The examination will specifically require a determination by the auditor as to whether or not the Bank has developed adequate internal policies and procedures relating to abandoned property and escheatment matters and would include a test of a representative sample of transactions to determine operational compliance with such policies and procedures, with a written report describing the steps performed by the auditor during the course of its examination and the auditor's specific findings and recommendations. The auditor's report will be delivered to the Department within 90 days of the close of the 12 month period to which it relates and will be unconditionally available to other government regulators and the plan fiduciaries upon request.⁴ KPMG,

³ In the Department's view, whether an auditor is independent for purposes of the proposed exemption would depend on the particular facts and circumstances of each case. However, the Department would not view as auditor as independent under circumstances where the auditor has a financial interest, including an ownership interest, in Bankers Trust Company or Deutsche Bank, or any affiliates thereof, or otherwise receives more than a de minimis amount of its compensation from any of those persons.

⁴ Bankers Trust Company represents that because its future affiliates will have had no affiliation with Bankers Trust Company during the period that the conduct that was the subject of the Plea Agreement

an international accounting firm, who is the Banks auditor, or other successor independent auditors, will perform this annual audit.

28. Bankers Trust Company asserts that failure to grant the requested exemption will prohibit employee benefit plans for which Bankers Trust Company affiliates act as investment managers from engaging in transactions with parties in interest that would otherwise be permitted under PTE 84-14, and will cause the plans to forego attractive investment opportunities. Bankers Trust Company notes that many of its current and future affiliates, as well as the Bank itself, would be deprived of their abilities to offer and render the full panoply of specialized investment advisory services demanded by employee benefit plans covered by the Act. Bankers Trust Company represents that the conduct referenced in the Plea Agreement did not involve the investment management functions of the Bank or its investment management affiliates. Bankers Trust Company further represents that sufficient changes have been made in the Bank's custody and processing business management, procedures and supervision to prevent in the future the conduct which gave rise to the Plea Agreement, supporting the inclusion of Bankers Trust Company as an entity permitted to function as a QPAM.

29. In summary, Bankers Trust Company represents that the proposed exemption satisfies the criteria of section 408(a) of the Act for the following reasons: (A) Bankers Trust Company has undertaken substantial reforms and adopted procedures designed to prevent any recurrence of the criminal activity and escheatment of ERISA funds; (B) an independent audit requirement will further protect plans and help assure plan participants that the conduct that was the subject of the Plea Agreement will not recur; (C) instances of noncompliance discovered during the audit will be reported by Bankers Trust Corporation to the Department within ten days of determination by the independent auditor; (D) the investment management units that oversees the transactions covered by QPAM were not the subject of the Plea Agreement; and (E) the other conditions of PTE 84-14, combined with the procedures adopted by Bankers Trust Company, afford ample protection

took place, the audit will focus solely on the operations that are currently part of the custody operations of Bankers Trust Company. Similarly, Alex. Brown Incorporated was not affiliated with Bankers Trust Corporation when the conduct identified in the Plea Agreement occurred and thus will not be subject to the annual audit examination.

of the interests of participants and beneficiaries of employee benefit plans.

Section 411 Proceeding

The Department notes that, as a result of Bankers Trust Company's conviction for violating 18 U.S.C. § 1005, the Pension and Welfare Benefits Administration's (PWBA) Office of Enforcement has undertaken an inquiry to determine whether, pursuant to ERISA § 411 (a), 29 U.S.C. § 1111 (a), a judicial proceeding should be instituted to bar Bankers Trust Company from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or from acting as a consultant to any employee benefit plan. Information obtained in this inquiry will not be used by the Department in its consideration of Bankers Trust Company's exemption request unless the Director of the Office of Enforcement submits such information, or any portion thereof, in writing, to PWBA's Office of Exemption Determinations for inclusion in the public record. Neither the Department's consideration of Bankers Trust Company's exemption request nor any final decision on such request shall foreclose completion of the Department's ERISA § 411 inquiry nor preclude any proceeding which may result therefrom seeking to bar Bankers Trust Company from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or from acting as a consultant to any employee benefit plan.

Notice to Interested Persons

With respect to notification of interested persons, the applicant will distribute this notice of proposed exemption by first class mail to an independent plan fiduciary for all ERISA pension plans for which Bankers Trust Company and its subsidiaries provide fiduciary services, including trustee services and/or the provision of investment advice and the owner of all IRA accounts to which Bankers Trust Company and its subsidiaries provide investment advisory services. The applicant will distribute the notice to all participants in its own ERISA pension plans, either by return receipt electronic mail or by first class mail. All notification will be mailed or electronically mailed within three business days after publication of the proposed exemption in the Federal Register. The applicant will also use its best efforts to notify an independent fiduciary for each former ERISA pension plan client of Bankers Trust Company

and its subsidiaries that has received or may receive additional funds stemming from either the CPS inquiry or the Bank's additional efforts to find participants with uncashed benefit checks.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams LaVigne or James S. Frazier of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 2nd day of June, 1999.

Ivna Straesfeld,

Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.

[FR Doc. 99-14369 Filed 6-4-99; 8:45 am]

BILLING CODE 4510-39-P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on June 12, 1999. The meeting will begin at 1:00 p.m. and continue until conclusion of the Board's agenda.

LOCATION: The Westin Hotel, 1672 Lawrence Street, Denver, CO 80202-2010.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(1)(D)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR § 1622.5(b)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Public Speakers:
 - a. Hon. Gregory J. Hobbes, Associate Justice, Supreme Court of Colorado
 - b. Bennett S. Aisenberg, President of The Colorado Bar Association
3. Approval of minutes of the Board's meeting of February 22, 1999.
4. Approval of minutes of the executive session of the Board's meeting of February 22, 1999.
5. Approval of minutes of the Board's meeting of April 17, 1999.
6. Approval of minutes of the executive session of the Board's meeting of April 17, 1999.
7. Chairman's Report.
8. Members' Report.
9. President's Report.
10. Inspector General's Report.
11. Consider and act on the Board's meeting schedule, including designation of locations, for year 2000.

12. Consider and act on the report of the Board's Operations and Regulations Committee.
- Consider and act on the Committee's recommendation regarding proposed final rule, 45 CFR Part 1641, Debarment, Suspension and Removal of Recipient Auditors.
- Consider and act on the Committee's recommendation regarding final rule, 45 CFR Part 1628, Recipient Fund Balances.
- Consider and act on the Committee's recommendation regarding proposed amendment(s) to the Corporation's 403(b) Thrift Plan that are intended to increase the Corporation's employer contribution level to match the Civil Service Retirement System.
13. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
14. Report on the status of the work of the special panel established to study and report to the board on issues relating to LSC grantees' representation of legal alien workers and the requirement that they be "present in the United States."
15. Appointment of Acting Vice President of Programs.
16. Consider and act on proposed resolution adopting new corporate logo for LSC's 25th Anniversary.

Closed Session

16. Briefing¹ by the Inspector General on the activities of the OIG.
17. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.

Open Session

18. Consider and act on other business.
19. Public Comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortune, General Counsel and Secretary of the Corporation, at (202) 336-8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336-8810.

¹ Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(4)(2) and (b). See also 45 C.F.R. § 1622.3 & 1622.1.

EXHIBIT G

MIAMI
NEW YORK
PALM BEACH
WASHINGTON, D.C.

EUROPE
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

1155 AVENUE OF THE AMERICAS
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JOHANNESBURG

FACSIMILE TRANSMISSION

Date: December 15, 1999 No. of Pages (including cover): 5

To: Robert F. Van Lierop, Esq. Fax Number: (212) 491-4949
Jonathan D. Bassett, Esq. Contact Number: (212) 491-3000

From: David G. Hille Reference No.: 1111779-0922

Re: Application of Bankers Trust Company and Bankers Trust Company of New York for
Fiduciary Substitution Under NYBL § 154

PLEASE NOTE: The information contained in this facsimile message is privileged and confidential, and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or if any problems occur with transmission, please contact sender at call (212) 818-7533. Thank you.

Gentlemen:

Attached is the final ERISA exemption as we discussed.

Best regards,

David Hille

Exhibit 112

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$22,791.

Description: Requires mine operators to report to MSHA quarterly employment levels and coal production. Employment and production data when correlated with accident and injury data provide information for making decisions on improving safety and health enforcement programs, focusing education and training efforts, and establishing priorities in technical assistance activities in mine safety and health.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99-19112 Filed 7-26-99; 8:45 am]

BILLING CODE 4110-13-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review;
Comment Request

July 21, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219-5086 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Mine Accident, Injury, and Illness Report.

OMB Number: 1219-0007.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Regulatory reference	Responses	Frequency	Annual responses	Average time per response	Burden hours
50.10 Immediate Notification	91 totals 2,156 other	One-time	2,247	30 minutes	1,124
50.11(b) Investigation of Accidents/Occupational Injuries.	48 totals 20,670 nonfatal 1,611 other	One-time	22,329	80 hours 2 hours 3 hours	50,013
50.11(b) Separate Reports <20 employees.	43 totals 545 other	One-time	588	40 hours 3 hours	3,355
50.20 Reports	22,937 initial 11,837 follow-up	One-time	34,934	30 minutes 29 minutes	15,438
Verify Data Mailer	10,000	Annually	10,000	30 minutes	5,000
Correct Data Mailer	245	Annually	245	15 minutes	62
Totals			70,344		74,992

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$19,188.

Description: Mine operators are required to submit Form 7000-1 to MSHA to report on accidents, injuries, and illnesses at their mines within 10 working days after an accident or injury has occurred or a work-related illness has been diagnosed. The use the form

provides for uniform information gathering.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99-19113 Filed 7-26-99; 8:45 am]

BILLING CODE 4110-13-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99-29; Exemption Application No. D-10747]

Bankers Trust Co., New York, New York, BT Alex Brown Inc., and Deutsche Bank AG

AGENCY: Pension and Welfare Benefits Administration, Department of Labor

ACTION: Grant of Individual Exemption.

SUMMARY: This document contains a final exemption from certain of the

prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and the Internal Revenue Code of 1986 (the Code). The final exemption, granted by the Department of Labor (the Department) to Bankers Trust Company, BT Alex Brown and Deutsche Bank AG, provides that those entities shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Exemption 84-14 (49 FR 9494, March 13, 1984) (PTE 84-14) solely because of a failure to satisfy section 1(g) of PTE 84-14 as a result of Bankers Trust Company's conviction for felonies described in a March 11, 1999 felony information.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams-Lavigne of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 7, 1999, the Department published a notice in the Federal Register of the pendency before the Department of a proposed exemption requested by Bankers Trust Company and Deutsche Bank AG. The Department proposed the exemption in response to an application dated March 12, 1999, which was submitted on behalf of Bankers Trust Company and its future affiliates pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart (55 FR 32836, 32847, August 10, 1990).¹

The notice set forth a summary of the facts and representations contained in the application for exemption and also invited interested persons to submit comments or requests for a hearing on the pending exemption to the Department.

The applicants agreed to provide notice to interested persons within three days of the date that the proposal appeared in the Federal Register. The applicants have represented that notice was furnished to five interested persons two days later than that date. As a result, the comment period was extended for two additional days. The applicants represent that notice to all other interested persons was furnished in a timely manner. All comments and requests for hearing were due by July 12, 1999.

The Department received eleven comments from interested persons on the proposed exemption. The

Department forwarded copies of the comments to the applicants and requested that the applicants address in writing the various concerns raised by the commentators. Most of the comments fell into broad categories that the applicants responded to in a general fashion. Where a single commentator raised a specific issue, such issue was responded to individually. A description of the comments and the applicants' responses are summarized below.

One commentator urged that the exemption not be granted because he had not received all of his benefits under a plan maintained by Bankers Trust Company. Bankers Trust Company notes that the former participant enclosed with his comment a copy of the check receipt that he had received at the time of the distribution. Bankers Trust Company believes that the participant received the full amount of his benefit at the time he received his check receipt.

Five comments urged denial of the exemption because of the commentators' belief that Bankers Trust Company has failed to meet the highest standard as a fiduciary. Deutsche Bank AG responded that it is committed to maintaining the highest fiduciary standards on which Bankers Trust Company was organized in 1903, and intends to bring together the best of the long traditions of service of each organization, building on the organizational changes described in the exemption application and the new policies and procedures put in place in the recent past.

One commentator suggested that not all employees have received certain ethics training. Deutsche Bank AG represents that it will verify that all Global Institutional Services (GIS) employees have received the appropriate training.² Another commentator was concerned that the legal protections of the Act and the Code would be eliminated if the exemption was granted. Deutsche Bank AG responded that it understands that all of the legal requirements of the Act and the Code continue to apply to the employee benefit plans of Bankers Trust Company and, as sponsor of those plans, represents that it will fully comply with all laws respecting its plans.

Two commentators opposed the granting of the exemption because they had unanswered questions about their

pension benefits. While these comments did not relate to the terms of the exemption, Deutsche Bank represents that it will contact those commentators and attempt to resolve their questions.

Another commentator argued that the exemption ought to be denied because, in the commentator's view, Deutsche Bank AG discriminates against members of the Church of Scientology. Deutsche Bank AG states that it maintains strict policies against discrimination on the basis of sex, race, creed or national origin and believes that those policies have been adhered to. Another commentator argued that the exemption should be denied because, in the past, Bankers Trust Company merged two of its employee benefit plans inappropriately. Bankers Trust Company responds that its actions in merging its plans were fully in compliance with the law.

In addition to comments, questions and requests for a hearing, the Department also received a comment letter, dated July 13, 1999, from Deutsche Bank AG. Deutsche Bank AG notes that Paragraph 2 of the Facts and Representations of the Notice states that BT Alex Brown is a subsidiary of Bankers Trust Corporation. Deutsche Bank AG noted that while that fact was true as of the date of the proposed exemption, BT Alex Brown is now a subsidiary of Deutsche Bank Securities, Inc.

Two commentators also requested a hearing on the proposal. The Department believes that the issues raised by the commentators are outside the scope of the proposed exemption. Accordingly, the Department does not believe that any issues have been identified which would require the convening of a hearing and has determined not to hold a public hearing.

Accordingly, after giving full consideration to the entire record, including the comments by the commentators, and the responses of the applicants, the Department has determined to grant the exemption. In this regard, the comments submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N-5507, U.S. Department of Labor, 200 Constitution Ave. NW, Washington DC 20010.

¹ Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of Treasury to issue exemptions of the type proposed to the Secretary of Labor.

² The March 11, 1999 felony information related to the conduct of certain employees in Bankers Trust Company's promotional services business. This unit was subsequently restructured as part of GIS.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and/or 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and/or the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary provisions of section 404 of the Act which, among other things, requires a fiduciary to discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption is supplemental to and not in derogation of any other provisions of the Act and/or Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete and accurately describe all material terms of the transaction which is the subject of this exemption.

Exemption**Section I. Bankers Trust Company**

Bankers Trust Company shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Exemption 84-14 (49 FR 9494, March 13, 1994) (PTE 84-14) for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company³ pled guilty on March 11, 1999 and ending five years⁴ from the date of publication of the final exemption in the Federal Register.

³On June 4, 1999, Bankers Trust Corporation, the parent of Bankers Trust Company, was acquired by Deutsche Bank AG. Bankers Trust Company, now a subsidiary of Deutsche Bank AG, continues to offer banking services to its clients.

⁴Prior to the expiration of this exemption, Bankers Trust Company may apply for an extension of the exemption.

solely because of a failure to satisfy section 1(g) of PTE 84-14 as a result of the conviction of Bankers Trust Company for felonies described in the March 11, 1999 felony information (the Information) entered in the U.S. District Court for the Southern District of New York, provided that:

(a) This exemption is not applicable if Bankers Trust Company becomes affiliated with any person or entity convicted of any of the crimes described in section 1(g) of PTE 84-14; and

(b) This exemption is not applicable if Bankers Trust Company is convicted of any of the crimes described in section 1(g) of PTE 84-14, other than those felonies discussed in the Information;

(c) The custody operations that were part of Bankers Trust Company at the time of the March 11, 1999 information, and which have subsequently been reorganized as part of Global Institutional Services (GIS), are subject to an annual examination of its abandoned property and escheatment policies, procedures and practices by an independent public accounting firm. The examination required by this condition shall determine whether the written procedures adopted by Bankers Trust Company are properly designed to assure compliance with the requirements of ERISA. The annual examination shall specifically require a determination by the auditor as to whether the Bank has developed and adopted internal policies and procedures that achieve a appropriate control objectives and shall include a test of a representative sample of transactions, fifty percent of which must involve ERISA covered plans, to determine operational compliance with such policies and procedures. The auditor shall issue a written report describing the steps performed by the auditor during the course of its examination. The report shall include the auditor's specific findings and recommendations. This requirement shall continue to be applicable to the custody operations that were part of Bankers Trust Company as of March 11, 1999, notwithstanding any subsequent reorganization of the custody operation function during the term of the exemption.

(d) With respect to the independent audit report described in section 1(c) above:

(1) Bankers Trust Company shall provide notice to the Department of any instances of the Bank's noncompliance with the written policies and procedures reviewed by the auditor within 10 business days after such noncompliance is determined by the auditor notwithstanding the fact that the

examination may not have been completed as of that date. Upon request, the auditor shall provide the Department with all of the relevant workpapers reflecting the instances of noncompliance. The workpapers should identify whether and to what extent the assets of ERISA plans were involved in the instances of noncompliance, and

(2) Any information relating to the Bank's noncompliance with the written policies and procedures that is required by Federal and/or state banking authorities to be reported to the state and/or Federal banking agencies shall also be reported by Bankers Trust Company to the Department within the same time frames that such information is otherwise required to be reported to those agencies.

(e) The annual examination described in section 1(c) above will be provided to the Department not later than 90 days following the 12 month period to which it relates, and will be unconditionally available for examination by any duly authorized employee or representative of the Department, Internal Revenue Service, Securities and Exchange Commission or Department of Justice or other relevant regulators and any fiduciary of a plan for which Bankers Trust Company performs services.

Section II

BT Alex. Brown Incorporated and its subsidiaries and Deutsche Bank AG shall not be precluded from functioning as a "qualified professional asset manager" pursuant to PTE 84-14 for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company pled guilty on March 11, 1999 and ending ten years from the date of publication of the final exemption in the Federal Register, solely because of a failure to satisfy section 1(g) of PTE 84-14 as a result of an affiliation with Bankers Trust Company, provided that:

(a) This exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG becomes affiliated with any person or entity convicted of any of the crimes described in section 1(g) of PTE 84-14; and

(b) This exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG is convicted of any of the crimes described in section 1(g) of PTE 84-14.

Section III. Definitions

(a) For purposes of this exemption, the term "Bankers Trust Company" includes Bankers Trust Company and any entity that was affiliated with Bankers Trust Company prior to the

date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, other than BT Alex. Brown Incorporated and its subsidiaries.

(b) For purposes of this exemption, "Deutsche Bank AG" includes Deutsche Bank AG and any entity that was affiliated with Deutsche Bank AG prior to the date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, and any future affiliates, other than Bankers Trust Company, as defined in subsection (a).

(c) The term "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any director of, relative of, or partner in, any such person.

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and,

(4) Any employee or officer of the person who—

(A) is a highly compensated employee (as defined in section 4975(c)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person) or,

(B) has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, DC, this 22nd day of July, 1999.

Ivan L. Straszfeld,

Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
Department of Labor.

[FR Doc. 99-19152 Filed 7-26-99; 8:45 am]
BILLING CODE 4910-29-P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99-30;
Exemption Application Nos. D-10663, et al.]

Grant of Individual Exemptions;
Premier Funding Group, Inc.;
Employees Profit Sharing Plan, et al

AGENCY: Pension and Welfare Benefits
Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains
exemptions issued by the Department of
Labor (the Department) from certain of

the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the modification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32947, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Premier Funding Group, Inc. Employees Profit Sharing Plan (the P/S Plan) and the Money Purchase Pension Plan for Employees of Premier Funding Group, Inc. (the M/P Plan, collectively, the Plans) Located in Arlington, Texas

[Prohibited Transaction Exemption 99-30;
Exemption Application Nos. D-10663 and D-10670]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply as of February 1, 1999, to a lease (the Lease) of certain second-floor space (the Leased Premises) in a building by the Plans to LM Holdings, Inc., a party in interest with respect to the Plans; provided that the following conditions are satisfied:

(a) All terms and conditions of the Lease are at least as favorable to the Plans as those which the Plans could obtain in an arm's-length transaction with an unrelated party;

(b) The fair market rental amount for the Lease has been determined by an independent qualified appraiser;

(c) Each Plan's allocable portion of the fair market value of both the Leased Premises and the building where the Leased Premises are located represents no more than 20 percent (20%) of the total assets of each Plan throughout the duration of the Lease;

(d) The interests of the Plans under the Lease are represented by an independent, qualified fiduciary (the Independent Fiduciary);

(e) The fees received by the Independent Fiduciary, combined with any other fees derived from any related parties, will not exceed 1% of that person's annual income for each fiscal year that such person continues to serve in the independent fiduciary capacity with respect to the Lease;

(f) The Independent Fiduciary evaluated the Lease and deemed it to be administratively feasible, protective and in the best interest of the Plans;

(g) The Independent Fiduciary monitors the terms and the conditions of the exemption and the Lease throughout its duration, and takes whatever action is necessary to protect the Plans' rights;

(h) At the discretion of the Independent Fiduciary, the Lease can be extended for two additional five-year terms, provided that the Independent Fiduciary requires independent appraisals of the Leased Premises to be performed at the time of each extension of the Lease so as to ensure that LM Holdings continues to pay fair market

EXHIBIT H

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
WASHINGTON, D.C.

EUROPE
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP
1155 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: (212) 819-8740

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
SINGAPORE
TOKYO

MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY
SAO PAULO

AFRICA
JOHANNESBURG

December 22, 1999

BY HAND

Jonathan D. Bassett, Esq.
Van Lierop, Burns & Bassett, LLP
320 Convent Avenue
New York, New York 10036-6331

Dear Mr. Bassett:

In accordance with the stipulation between us and the statements made on the record before Justice Cozier on December 17, 1999, at Supreme Court, New York County, IAS Part 3, we enclose copies of Exhibits B, C and E (the "Exhibits") to the petition of Bankers Trust Company verified on September 29, 1999.

We are submitting them to Mr. Van Lierop and you on the understanding that both of you will be bound by the Court's order dated October 29, 1999 impounding the Exhibits; that is that, other than Mr. Von Lierop and you, they will:

"... not be disclosed to, inspected by or made available for copying to any persons other than (a) individuals associated with or employed by the Court or (b) individuals who may present an order from the Court granting permission to inspect [the Exhibits]"

These Exhibits are of course highly confidential and sensitive. We request that no later than the conclusion of this proceeding, all the Exhibits and all copies as well as any part thereof be returned to us as attorneys for petitioners.

In your letter of December 21, 1999 to Mr. Rutherford, you suggest that Mr. Van Lierop and you are interested in inspecting the material submitted by Bankers Trust Company in support of its successful application to the New York State Parole Board. We enclose a copy of that application with this letter. Again, a good deal of the information contained therein is intended to

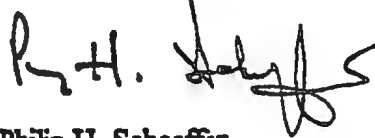
Exhibit 113

Jonathan D. Bassett, Esq.

Page 7

be ~~revised~~ and we request that when you have completed your inspection and use thereof, you ~~submit~~ the copy of the application to us together with any copies you choose to make.

Sincerely,



Philip H. Schaeffer

PHS:

cc: Robert F. Van Lierop, Esq. (w/o encl.)

The People of the State of New York:
BY THE GRACE OF GOD FREE AND INDEPENDENT

To all to whom these presents shall come or may concern, GREETING:

Know Ye, That we having examined the records and files in the office of
the Clerk of the County of New York and Clerk of the Supreme Court of said State
for said County, do find a certain **AFFIDAVIT OF SERVICE**

there remaining, in the words and figures following, to wit:



Exhibit 114

Steven Chépiga
Clerk of the Court
Surrogate's Court, Kings County
2 Johnson Street
Brooklyn, NY 11201

Al Petraglia
Clerk of the Court
Surrogate's Court, Nassau County
262 Old Country Road
Mineola, NY 11501

John W. Kelley
Clerk of the Court
Surrogate's Court,
Westchester County
140 Grand Street
White Plains, NY 10601

Clerk of the Court
Surrogate's Court, Putnam County
42 Gleneida Avenue
Carmel, NY 10512

Alice Rice
Clerk of the Court
Surrogate's Court, Queens County
88-11 Sutphin Boulevard
Jamaica, NY 11435

Clerk of the Court
Supreme Court, Westchester County
110 Dr. Martin Luther King Boulevard
White Plains, NY 10601

Marlene H. Ruiz
Clerk of the Court
Probate Court, District of Bethel
1 School St., P.O. Box 144
Bethel, CT 06801

Geraldine C. Nargi
Clerk of the Court
Probate Court, District of Bridgeport

202 State Street
Bridgeport, CT 06604

Marjorie L. Cerveniski
Clerk of the Court
Probate Court, District of Danbury
City Hall Building
155 Deer Hill Avenue
Danbury, CT 06810

Jean M. Fitzmaurice
Clerk of the Court
Probate Court, District of Darien
Town Hall
2 Renshaw Road
Darien, CT 06820-5397

Sybil Ann Mackenzie
Clerk of the Court
Probate Court, District of Fairfield
Independence Hall
725 Old Post Road
Fairfield, CT 06430

Barbara Carbino
Clerk of the Court
Probate Court, District of Greenwich
Town Hall
101 Field Point Road
P.O. Box 2540
Greenwich, CT 06836-2540

Sondra J. Waterman
Clerk of the Court
Probate Court, District of Hartford
10 Prospect Street, Room 404
Hartford, CT 06103-2814

Cynthia Lynch
Clerk of the Court
Probate Court, District of Hebron
15 Gilead Road
Hebron, CT 06248

Clerk of the Court
Probate Court, District of Litchfield

74 West Street
P.O. Box 505
Litchfield, CT 06759

Joan D. Nowak
Clerk of the Court
Probate Court, District of New Canaan
Town Hall, 77 Main Street
New Canaan, CT 06840

Tara L. Courtmanche
Clerk of the Court
Probate Court, District of New Haven
200 Orange Street, 1st Floor
P.O. Box 905
New Haven, CT 06504-0905

Anne R. Moses
Clerk of the Court
Probate Court, District of Norfolk
19 Maple Avenue
P.O. Box 648
Norfolk, CT 06058-0648

Mary Jane Johnson
Clerk of the Court
Probate Court, District of Norwalk
125 East Avenue
P.O. Box 2009
Norwalk, CT 06852-2009

Carol N. Conklin
Clerk of the Court
Probate Court, District of Redding
Town Hall, Lonetown Road
P.O. Box 1125
Redding, CT 06875

Ann Buccitti
Clerk of the Court
Probate Court, District of Ridgefield
Town Hall, 400 Main Street
Ridgefield, CT 06877

Patricia Laitala
Clerk of the Court

Probate Court, District of Salisbury
Town Hall, 27 Main Street
P.O. Box 525
Salisbury, CT 06068

Kathleen Visconti
Clerk of the Court
Probate Court, District of Sharon
63 Main Street
P.O. Box 1177
Sharon, CT 06069-1177

Cynthia A. Wadman
Clerk of the Court
Probate Court, District of Southbury
421 Main Street, South
P.O. Box 674
Southbury, CT 06488-0674

Nina Turnbull
Clerk of the Court
Probate Court, District of Stamford
888 Washington Boulevard
P.O. Box 10152
Stamford, CT 06904-2152

Cynthia Gilbode
Clerk of the Court
Probate Court, District of Waterbury
236 Grand Street
Waterbury, CT 06702

Pamela L. Osbourne
Clerk of the Court
Probate Court, District of Washington
Town Hall
3 Bryan Memorial Plaza
P.O. Box 295
Washington Depot, CT 06794-0295

Sally S. Skerritt
Clerk of the Court
Probate Court, District of West Haven
355 Main Street
P.O. Box 127
West Haven, CT 06516

Shirley A. DeLuca
Clerk of the Court
Probate Court, District of Westport
Town Hall
110 Myrtle Avenue
Westport, CT 06880

Clerk of the Court
Probate Court, New Castle County
Register of Wills
City Country Building
P.O. Box 8811
New Castle, DE 19899-8811

Clerk of the Court
Surrogate's Court,
Bergen County
Justice Center, Room 211
10 Main Street
Hackensack, NJ 07601

Clerk of the Court
Surrogate's Court,
Essex County
465 Martin Luther King Boulevard.
Room 206
Newark, NJ 07102

Clerk of the Court
Surrogate's Court, Middlesex County
P.O. Box 790
7th Floor Administration Building
New Brunswick, NJ 08903

Clerk of the Court
Surrogate's Court, Cuyahoga County
One Lakeside Avenue
Room 257
Cleveland, Ohio 44113

Clerk of the Court
Orphan's Court, Elk County

Register and Records
P.O. Box 314
Ridgewood, PA 15853

Kathy Yeager
Clerk of the Court
Orphan's Court, Erie County
140 West 6th Street, Room 205
Erie, PA 16501

Clerk of the Court
Orphan's Court, Montgomery County, 2nd Floor
P.O. Box 311
Norristown, PA 19404-0311

Clerk of the Court
Probate Court, District of Chittenden
P.O. Box 511
Burlington, VT 05402

Clerk of the Court
Probate and Family Court, Hampden County
50 State Street
Springfield, MA 01103

Clerk of the Court
Probate Court, District of Lamoille
P.O. Box 102
Hyde Park, VT 05655-0102

Clerk of the Court
Probate Court, District of Manchester
P.O. Box 446
Manchester, VT 05254

Tonya White
Clerk of the Court
Probate Court, Beaufort
P.O. Box 1083
Beaufort, SC 29901

Clerk of the Court
Probate and Family Court
Essex County
36 Federal Street
Salem, MA 01970

which are the addresses designated for that purpose, by depositing a true copy thereof, enclosed in a properly addressed and postage paid wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the County, City and State of New York.

Joann Disanti
JOANN DISANTI

Sworn to before me this
13th day of December, 1999

Charrise Bradley
Notary Public

CHARRISE BRADLEY
Notary Public, State of New York
No. 01BR5048680
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires Aug. 28, 2001

No 250202

STATE OF NEW YORK,
COUNTY OF NEW YORK, SS:
I, NORMAN GOODMAN,
COUNTY CLERK AND CLERK
OF THE SUPREME COURT,
NEW YORK COUNTY,
DO HEREBY CERTIFY ON

SEP. 29. 2006

THAT I HAVE COMPARED THIS
COPY WITH THE ORIGINAL
FILED IN MY OFFICE ON
7.22/00

AND THAT THE SAME IS A
CORRECT TRANSCRIPT
THE FEE FOR THIS OF THE
NEW YORK COUNTY
IN WHICH THE ORIGINAL
I HAVE HEREUNTO SET MY
HAND AND AFFIXED MY
OFFICIAL SEAL

Norman Goodman
COUNTY CLERK AND CLERK OF THE
SUPREME COURT, NEW YORK COUNTY

FACSIMILE SIGNATURE USED
PURSUANT TO SEC. 800,
COUNTY LAW.

FEE PAID

EXHIBIT

EXHIBIT

... of which we are authorized by these presents to be exemplified and
Seal of our said County and Supreme Court to be hereunto affixed.

Witness, Hon. **WILLIAM P. McCOOE** a Justice of the Supreme

Court of the State of New York for the County of New York, the 29th
of **SEPTEMBER** in the year of our Lord two thousand and
ix, and of our independence the two hundred and



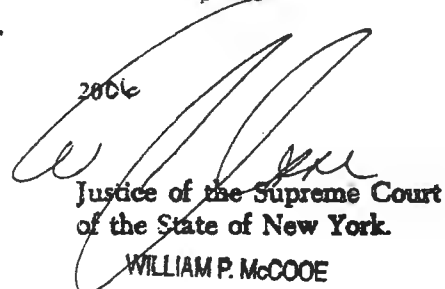
County Clerk and Clerk of the
Supreme Court, New York County



WILLIAM P. McCOOE

I, Justice of the Supreme Court of the State of New York for the County of New York,
being a Court of Record, do hereby certify that the foregoing attestation is
in due and proper form and by the proper officer.

Dated, New York, **OCT - 2 2006**



Justice of the Supreme Court
of the State of New York.
WILLIAM P. McCOOE

State of New York,
County of New York,

} ss.:

I, **NORMAN GOODMAN**, County Clerk and Clerk of the
Supreme Court of the State of New York, County of New
York, do hereby certify that Hon. **WILLIAM P. McCOOE**
whose name is subscribed to the preceding certificate is
a Justice of the Supreme Court of said State in and for
the County of New York, duly elected and qualified, and
that the signature of said Justice to said certificate is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my
hand and affixed the Seal of said County and Court this
3rd day of **October** 20 **06**.



County Clerk and Clerk of the
Supreme Court, New York County.

13290

No. _____

2. Petitioners commenced this proceeding by filing an application for an Ex Parte Order which the Court granted on October 29, 1999 (the "Ex Parte Order") (a copy of the Ex Parte Order is attached hereto as Exhibit 1). In summary, by the Ex Parte Order the Court: (i) approved the Notice of Petition to be provided to those persons entitled to receive notice of the Verified Petition; (ii) appointed Robert F. Van Lierop, Esq. as guardian *ad litem* to represent the interests of those persons whose whereabouts are unknown and of those persons who otherwise ought to have their interests represented; (iii) ordered that a hearing on the Verified Petition take place on December 17, 1999; (iv) set forth the method by which the Notice of Petition was to be served upon those persons entitled to notice, and; (v) set forth the procedures to be followed by anyone having an objection to the Verified Petition.

Notice of the Petition Has Been Properly Given

3. In the Ex Parte Order the Court ordered that pursuant to NYBL § 154(2):

"(a) at least twenty-five (25) days prior to the hearing date, Petitioners shall cause a copy of the Notice of Petition to be mailed by first class mail to (i) each person identified in the Verified Petition as being entitled to receive notice at such persons' addresses last known to the Petitioners, and (ii) the guardian *ad litem* appointed by this Order, and

(b) Petitioners shall cause a copy of the Notice of Petition to be published in one newspaper of general circulation in the county in which the principal offices of Petitioners each are located, viz.: in the New York Times published in the City of New York, County of New York, once in each of three successive weeks preceding the hearing date;"

Petitioners have served the Notice of Petition in accordance with NYBL § 154(1)-(2) and the Ex Parte Order to all those entitled to notice under § 154.

4. As set forth in Affidavit of Robert Isola, sworn to December 15, 1999 (which is attached hereto as Exhibit 2), on November 15, 16 and 18, 1999 the Notice of Petition was mailed by first class mail to the persons entitled to notice listed on Exhibit E to the Verified Petition, (except for the clerks of court listed on said Exhibit E who were served as set forth in the following paragraph).

5. As set forth in the Affidavit of Service of JoAnn DiSanti, sworn to December 13, 1999 (which is attached hereto as Exhibit 3), on November 4, 1999 the Notice of Petition was mailed by first class mail to the clerks of those courts where estates, guardianships or conservatorships were pending, such clerks being entitled to notice under NYBL § 154(1)(iv) and being listed on Exhibit E to the Verified Petition.

6. As set forth in the Affidavit of Service of Carol Marshall, sworn to December 13, 1999 (which is attached hereto as Exhibit 4), on November 3, 1999 the Ex Parte Order, the Ex Parte Order Impounding Records, the Notice of Petition, the Verified Petition, the Memorandum in support of the Verified Petition and Exhibit C to the Verified Petition were mailed by first class mail and were delivered by hand to Robert F. Van Lierop, Esq., the guardian *ad litem* appointed in this proceeding, at 320 Convent Ave., New York, NY, 10031.

7. As set forth in the Certifications of Publication of Arlene Moller, dated December 9 and 10, 1999 (attached hereto as Exhibit 5), the Notice of Petition was published in the New York Times on November 17, November 24 and December 1, 1999.

Objections to the Petition

8. Copies of the Notice of Petition and the Verified Petition have been served upon the guardian *ad litem* appointed by this Court, the Attorney General of the State of New York and the Banking Department of the State of New York. We are informed that the Attorney General has appeared in this proceeding by Notice of Appearance and that neither the Attorney General nor the Banking Department has any objection or opposition to the relief requested herein.

9. In the Ex Parte Order the Court also ordered that pursuant to NYBL § 154(4), recipients of the Notice of Petition may:

“(a) file with the Clerk of the Court at least three days before the date of the above-scheduled hearing all objections they have to the requested substitution of fiduciary relationships (“Objections”), such Objections to be in writing and to set forth the reasons therefor; and

(b) appear at the hearing in person or by an attorney to show cause why an order should not be entered pursuant to NYBL § 154: [granting the relief sought in the Verified Petition]”

The Court further ordered that all Objections shall be served so as to be received by counsel for the Petitioners, White & Case LLP, “no later than three days before the hearing date.”

Consequently, in accordance with NYBL § 154 and the Court’s Ex Parte Order, all Objections had to be filed with the Clerk of the Court and received by White & Case LLP on or before December 14, 1999.

10. Four objections were timely made and two were made thereafter. These objections are the: (i) objection of Elisabeth Sichel dated November 29, 1999; (ii) objection on

behalf of Elizabeth Amoroso, Joseph Amoroso, Leila Pile, Madaleine Ryan, Helen M. Grady, Mary G. Keith and Elizabeth G. McKay (all of whom have accounts with Horizon Asset Management, Inc.) dated December 13, 1999; (iii) objection of H. Brooks Whelan, Jr., Lisa Ann Whelan and Norman Edward Whelan dated December 11, 1999; (iv) objection of Manny Place and David Manny Place dated December 14, 1999; (v) objection of Arthur Lukach, Jr. dated December 10, 1999 and; (vi) objection of Mary Hiscock dated December 14, 1999.

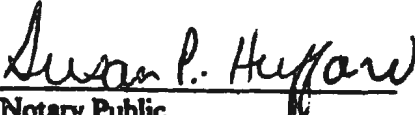
11. In addition to the Objections, one Notice of ~~Objection~~ was entered by counsel for Charles J. Groppe, Esq., a co-trustee and interested person. ~~Such~~ objection has been served on counsel for the Petitioners by or on behalf of Mr. Groppe.

12. No other Objections have been served on counsel for Petitioners, timely or otherwise, and the time for filing Objections has not been otherwise ~~extended~~.

WHEREFORE, it is respectfully requested that Petitioners' application to have Trust Co. substituted for BTCo for fiduciary relationships pursuant to NYBL § 154 and as set forth in the Verified Petition be granted.


 David G. Hille

Sworn to before me this
 16th day of December, 1999


 Notary Public

BUSAN P. HUFFARD
 Notary Public, State of New York
 No. 0247740371
 Qualified in New York County
 Commission Expires Feb 22, 1999-2001

STATE OF NEW YORK
 COUNTY OF SULLY
 COUNTY CLERK AND CLERK
 OF THE SUPREME COURT
 DO HEREBY CERTIFY ON
 SP 03 2006
 THAT I HAVE COMPILED THE
 INDEX TO THE RECORDS ENTERED BY
 [Signature]
 CORRECT TRANSFER
 THEREOF AND OF THE
 WHOLE OF SUCH ORIGINAL
 RECORDS. WITNESS MY HAND
 I HAVE HERETO SET MY
 FACE AND AFFIRMED MY
 OFFICIAL SEAL
 [Signature]
 COUNTY CLERK AND CLERK OF THE
 SUPREME COURT, NEW YORK COUNTY
 FORTRESS ST. S.C. 6th
 COUNTY CLERK

INDEX NO. 99/121823

SUPREME COURT OF THE STATE OF
NEW YORK COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION
OF BANKERS TRUST COMPANY OF
NEW YORK (f.k.a., DEUTSCHE BANK
TRUST COMPANY) AND BANKERS
TRUST COMPANY,

PETITIONERS,

FOR SUBSTITUTION OF FIDUCIARY
RELATIONSHIPS PURSUANT TO NEW
YORK BANKING LAW SECTION 154.

ORIGINAL

AFFIDAVIT OF REGULARITY

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

ATTORNEYS FOR PETITIONERS

1155 Avenue of the Americas
New York, New York 10036-2787
212-819-8200

TO
ATTORNEY FOR

SIR:

PLEASE TAKE NOTICE that a

of which the within is a true copy, has
been made herein and was duly entered
and filed in the office of the Clerk of the

on the day of

19

FILED

WHITE & CASE
LIMITED LIABILITY PARTNERSHIP

Attorneys for

1155 Avenue of the Americas
New York, New York 10036-2787

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

Via Certified Mail
7002 0460 0002 9950 4550
Return Receipt Requested

November 27, 2006

Clerk of the Court
Litchfield Probate District (074)
~~74 West Street, P.O. Box 505~~
Litchfield, CT 06759-0505

Dear Clerk of the Court:

According to the enclosed Exemplified Copy of an Affidavit of Service (*Enclosure #1 - 10 pp.*) dated 12/13/99 (Executed by JoAnn DiSanti), the Clerk of this Court (see pages 3 & 4) received a copy of the enclosed Notice of Petition (*Enclosure #2 - 2 pp.*), dated 10/29/99, that was required to be filed in your Court.

Enclosed also are Certified Copies of *1) Affidavit of Regularity* (*Enclosure #3 - 6 pp.*), dated 12/16/99, by David G. Hille and *2) Letter* (*Enclosure #4 - 3 pp.*) dated 10/14/99 to Hon. Stephen G. Crane from Cyrus Benson III. Both detail the fact that the Clerk of this Court received the prerequisite Notice of Petition (*Enclosure #2*).

Further, enclosed is a Certified Copy of the Verified Petition (*Enclosure #5 - 34 pp.*), dated 9/28-29/99, which is the subject of the Notice of Petition (*Enclosure #2*) and also detailed in the Hille Affidavit of Regularity (*Enclosure #3*).

These documents (above) are part of the "Application of Bankers Trust Company of New York [f.k.a. Deutsche Bank Trust Company] and Bankers Trust Company" for the "Substitution of Fiduciary Relationships pursuant to New York Banking Law §154 - Index No. 99/121823". The federal criminal conviction of Bankers Trust Company on 7/26/99 (See Docket Sheet - Enclosure #6 - 4 pp.), necessitated the so-called 'Substitution' that is detailed in the Verified Petition (*Enclosure #4*). Deutsche Bank AG, purchased Bankers Trust Company on 6/4/99, and on 4/15/02, the name was changed to Deutsche Bank Trust Company Americas (See *Enclosure #7 - 1 pp.*).

I request Exemplified Copies of the Notice of Petition (*Enclosure #2*) and the Verified Petition (*Enclosure #5*), if they have been received by your Court. Please notify me of any charges. If you have not received these documents, please advise me in writing. I would appreciate your cooperation in this matter. Thank-you

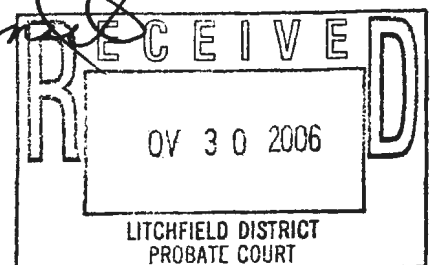
Sincerely yours,

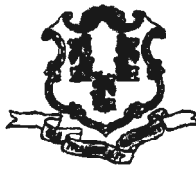

Suzanne McCormick

SM/ms

Enclosures

Exhibit 116





STATE OF CONNECTICUT
LITCHFIELD DISTRICT PROBATE COURT
KENT • LITCHFIELD • MORRIS • WARREN

DIANE S. BLICK
JUDGE

April 11, 2007

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, NY 10522

Dear Ms. McCormick:

As the incoming administration in the Litchfield District Probate Court as of January 2, 2007, we discovered a number of matters which had not been addressed.

My apologies for not getting back to you sooner.

I find no record of the receipt or recording of the enclosed documents which I am returning to you today.

If I can be of any further service to you, do not hesitate to contact me.

Very truly yours,



Kay Matarese
Clerk

REPLY TO:
LITCHFIELD OFFICE
TOWN HALL
74 WEST STREET
P.O. BOX 505
LITCHFIELD, CT 06759
TEL. (860) 567-8065
FAX (860)-567-2538
HOURS
MONDAY - FRIDAY
9:00 AM - 4:00 PM
AND BY APPOINTMENT

KENT OFFICE
TOWN HALL
41 KENT GREEN
KENT, CT 06757
TEL. (860) 927-3729
HOURS
TUESDAY
9:00 AM - 1:00 PM
AND BY APPOINTMENT

Suzanne McCormick
Concert Pianist
231 Clinton Avenue
Dobbs Ferry, New York 10522

Via Certified Mail
7006 0100 0006 6306 7114
Return Receipt Requested

FILED DEC 04 2006

December 1, 2006

Clerk of the Court
Essex Probate and Family Court
365 Federal Street
Salem, MA 01970

Dear Clerk of the Court:

According to the enclosed
#1 - 10 pp.) dated
page 7) re
10/29/99,

Enclosure
6 pp.), dated
10/14/99 to
the Clerk of the

Further
pp.), dated 9/2
and also detailed

These documents
of New York (f.k.a.
"Substitution of F
Index No. 99/121,

of an Affidavit of Service (Enclosure
DiSanti), the Clerk of this Court (see
Notice of Petition (Enclosure #2 - 2 pp.), dated
rt.
Affidavit of Regularity (Enclosure #3 -
ter (Enclosure #4 - 3 pp.) dated
on III. Both detail the fact that
Notice of Petition (Enclosure #2).
Verified Petition (Enclosure #5 - 34
ce of Petition (Enclosure #2)
Enclosure #3).
of Bankers Trust Company
and Bankers Trust Company" for the
pursuant to New York Banking Law §154 -
Federal criminal conviction of Bankers Trust Company on
7/26/99 (See Docket Sheet - Enclosure #6 - 4 pp.), necessitated the so-called
'Substitution' that is detailed in the Verified Petition (Enclosure #4). Deutsche Bank
AG, purchased Bankers Trust Company on 6/4/99, and on 4/15/02, the name was
changed to Deutsche Bank Trust Company Americas (See Enclosure #7 - 1 pp.).

I request Exemplified Copies of the Notice of Petition (Enclosure #2) and the
Verified Petition (Enclosure #5), if they have been received by your Court. Please notify
me of any charges. If you have not received these documents, please advise me in
writing. I would appreciate your cooperation in this matter. Thank-you

Sincerely yours,

Suzanne McCormick

SM/ms

Enclosures

Cc: Chief Justice Sean M. Dunphy

PROBATE & FAMILY COURT
30 FEDERAL STREET
SALEM, MA 01970

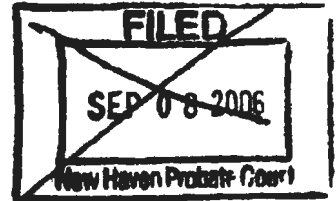
UNITED STATES POSTAGE
02 1A \$03.27
0004559210 DEC 06 2006
MAILED FROM ZIP CODE 01970

Suzanne McCormick
231 Clinton Ave.
Dobbs Ferry, N.Y. 10522

JONATHAN MANNY PLACE
 300 Falmouth Rd.-4F, P.O Box 2340, Mashpee, MA 02649
 Ph. & Fax: (508) 477-8524

Via First Class Regular Mail

September 3, 2006



Re: **Request Certified Copy of the Notice of Petition (Index No. 99/121823) for Substitution of Fiduciary Relationships pursuant to New York Banking Law §154 by Bankers Trust Company of New York (f/k/a Deutsche Bank Trust Company) and Bankers Trust Company dated October 29, 1999, allegedly filed by White & Case LLP, attorneys for Petitioners, consisting of 2 pp. (attached)**

Dear Clerk of the Court:

I hereby request a **Certified Copy** of the **Notice of Petition** (attached) if same has been filed in your Court. In this regard please see **Enclosures #2 and #3** attached. Please advise me of any charges concerning this request for a **Certified Copy**.

Thank you in advance for your cooperation in this matter. If I can be of any further assistance, please do not hesitate to call me at (508) 477-8524.

Sincerely,

Jonathan Manny Place

JMP/vb

Enclosures:

1. **Notice of Petition (Index No. 99/121823) for Substitution of Fiduciary Relationships Pursuant to NY Banking Law §154 by Bankers Trust Company of New York (f/k/a/ Deutsche Bank Trust Company) and Bankers Trust Company dated October 29, 1999, allegedly filed by White & Case LLP, attorneys for Petitioners, consisting of 2 pp.**
2. **Copy of letter from Joseph M. Accetta, Esq., Court Attorney/Referee of the Westchester County Surrogate's Court dated August 14, 2006 consisting of 1 pp.**
3. **Copy of letter from Barbara Carbino, Clerk of the Court of Probate, District of Greenwich, State of Connecticut dated August 21, 2006 consisting of 1 pp.**

Total of 5 pp.

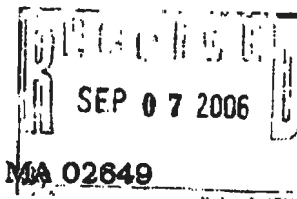
*Nothing filed
 in this Court.
 Edward Cleary
 Asst Clerk*

V Kathleen A. Visconti

No such record
exists in this court.

SHARON PROBATE COURT
P.O. BOX 1177, 63 MAIN ST.
SHARON, CT 06089

JONATHAN MANNY PLACE
300 Falmouth Rd.-4F, P.O Box 2340, Mashpee, MA 02649
Ph. & Fax: (508) 477-8524



Via First Class Regular Mail

September 3, 2006

Re: Request Certified Copy of the Notice of Petition (Index No. 99/121823) for Substitution of Fiduciary Relationships pursuant to New York Banking Law §154 by Bankers Trust Company of New York (f/k/a Deutsche Bank Trust Company) and Bankers Trust Company dated October 29, 1999, allegedly filed by White & Case LLP, attorneys for Petitioners, consisting of 2 pp. (attached)

Dear Clerk of the Court:

I hereby request a Certified Copy of the Notice of Petition (attached) if same has been filed in your Court. In this regard please see Enclosures #2 and #3 attached. Please advise me of any charges concerning this request for a Certified Copy.

Thank you in advance for your cooperation in this matter. If I can be of any further assistance, please do not hesitate to call me at (508) 477-8524.

9/11/06

Sincerely,

Jonathan Manny Place

WE HAVE RESEARCHED OUR FILES AND FIND THAT WE DO NOT HAVE ANYTHING FILED IN THIS COURT.

WATERBURY PROBATE COURT
BARBARA

JMP/vb

Enclosures:

1. Notice of Petition (Index No. 99/121823) for Substitution of Fiduciary Relationships Pursuant to NY Banking Law §154 by Bankers Trust Company of New York (f/k/a Deutsche Bank Trust Company) and Bankers Trust Company dated October 29, 1999, allegedly filed by White & Case LLP, attorneys for Petitioners, consisting of 2 pp.
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Total of 5 pp.



State of Connecticut
Court of Probate for the District of Ridgefield
400 MAIN STREET, TOWN HALL, RIDGEFIELD, CONNECTICUT 06877
TELEPHONE (203) 431-2776 • FAX (203) 431-2722

JOSEPH A. EGAN, JR.
Probate Judge

JACQUELINE BUCKLE
Clerk

September 14, 2006

Mr. Jonathan Manny Place
300 Falmouth Road - 4F
P.O. Box 2340
Mashpee, MA 02649

Re: Request for Certified Copy of Notice of Petition (Index No. 99/121823)

Dear Mr. Place:

The above referenced document was not filed in this court.

Very truly yours,


Jacqueline Buckle, Clerk

**PROBATE COURT
DISTRICT OF CHITTENDEN**

**Susan L. Fowler
Probate Judge**



(802) 651-1518

**County Courthouse
P.O. Box 511
Main Street
Burlington, Vermont
05402**

September 13, 2006

Mr. Jonathan Manny Place
300 Falmouth Road 4F
P.O. Box 2340
Mashpee, Massachusetts 02649

Re: Request for Copies: Substitution of Fiduciary Relationships

Dear Mr. Place,

There are no filings in this court related to the petition for copies you have filed.

Sincerely,

Susan L. Fowler
Probate Judge



State of Connecticut

COURT OF PROBATE
DISTRICT OF HARTFORD

ROBERT K. KILLIAN, JR.
JUDGE

250 CONSTITUTION PLAZA
THIRD FLOOR
HARTFORD, CONNECTICUT 06103-2800
TELE (860) 757-9150
FAX (860) 724-1503

September 8, 2006

Jonathan Manny Place
300 Falmouth Rd. 4F
P. O. Box 2340
Mashpee, MA 02649

Dear Mr. Place:

Please be advised that we do not have any copy of the document regarding Deutsche Bank and Bankers Trust Company.

Very truly yours,

A handwritten signature in cursive script that reads "Sondra J. Waterman". The signature is written in black ink and has a long, sweeping underline.

Sondra J. Waterman, Clerk

**PROBATE COURT
DISTRICT OF LAMOILLE**

Hon. James R. Dean Mahoney, Probate Judge
Doreen Blake, Probate Register



(802) 888-3306

P.O. Box 102
Hyde Park, Vermont
05855-0102

September 7, 2006

Jonathan Manny Place
PO Box 2340
Mashpee, MA 02649

Re: Request for Certified Copy of Notice of Petition

Dear Mr. Place:

I am writing to you in connection with the above referenced matter. Please be advised that we do not have any copy regarding Deutsche Bank and Bankers Trust Company.

Very truly yours,

A handwritten signature in cursive script that reads "Doreen Blake".

Doreen Blake
Lamoille Probate Register

|



Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway | New York, NY 10036-4039 | tel 212.858.1000 | fax 212.858.1500

David Keyko
Partner
tel 212.858.1604
david.keyko@pillsburylaw.com

Via Hand

September 5, 2008

Honorable Shira A. Scheindlin
United States District Court
500 Pearl Street
New York, NY 10007

Re: Suzanne McCormick v. The State of New York, 08CV4438(SAS)

Dear Judge Scheindlin:

I am a named defendant in the action captioned *Suzanne McCormick v. The State of New York*. I am writing to you to follow up on my letter to the Court of August 15, 2008 (the "Letter") respectfully requesting that you correct an inaccuracy in the recent combined decision, dated August 8, 2008, dismissing various cases (the "Decision"), including the one brought by Suzanne McCormick to which I am named as a defendant. A copy of the Letter is attached for the convenience of the Court.

I, like most lawyers, take my reputation very seriously. I note that the Decision has been published. The fact that Mrs. McCormick complained about some unspecified, purported conduct of mine, not as her counsel, but as opposing counsel, I believe will be viewed by those who read the Decision as significant. I ask for the Court's guidance as to whether the Court would like a formal motion to amend the decision to correct the error I detailed in the Letter.

Thank you for your consideration of my request.

Respectfully submitted,

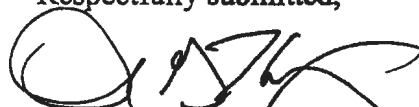

David G. Keyko

Exhibit 117

cc. Mrs. Suzanne McCormick



Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway | New York, NY 10036-4039 | tel 212.858.1000 | fax 212.858.1500

David Keyko
Partner
tel 212.858.1604
david.keyko@pillsburylaw.com

Via Hand

August 15, 2008

Honorable Shira A. Scheindlin
United States District Court
500 Pearl Street
New York, NY 10007

Re: Suzanne McCormick v. The State of New York, 08CV4438(SAS)

Dear Judge Scheindlin:

I am a named defendant in the action captioned *Suzanne McCormick v. The State of New York*. I have never been served with the summons or complaint and therefore have not participated in any proceedings concerning the case. I write to respectfully request that you correct an inaccuracy in the recent combined decision, dated August 8, 2008, dismissing various cases including the one brought by Suzanne McCormick to which I am named as a defendant.

The opinion incorrectly states that Mrs. McCormick hired me to represent her. *See Op.* at 19. As the Court noted in its opinion, the complaint is vague and so it is difficult to figure out what wrong she has alleged I have committed. No where, however, in the complaint does Mrs. McCormick assert that she retained me to represent her. To the contrary, I and my firm were retained by Bankers Trust Company, now Deutsche Bank, to defend it against claims brought by Mrs. McCormick in proceedings relating to her late husband's estate. Mrs. McCormick and the bank were among five executors of that estate. Neither my firm nor I represented the bank in connection with the proceedings which form the basis for Mrs. McCormick's claims.

I note that my only knowledge about Mrs. McCormick having filed a disciplinary complaint against me is from reading the allegation in her complaint that state that she had done so. Assuming that she did file such a complaint, the Departmental Disciplinary Committee must have sua sponte determined not to pursue

Honorable Shira A. Scheindlin
August 15, 2008
Page 2

the matter. I am aware of no legitimate basis upon which she could have filed a complaint against me.

If I can be of any further assistance to the Court, I hope you will not hesitate to let me know.

Respectfully submitted,



David Keyko



First Class Mail

pillsbury

Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway | New York, NY 10036-4039

ROBERT T. WESTROM

Ms. Suzanne McCormick
P.O. Box 102
Hastings on Hudson, NY 10706

1 ELISABETH SICHEL
2580 CARLTON PL.
2 RIVERSIDE, CA 92507
909-683-4137
3 CO-TRUSTEE OF THE WALTER SICHEL TRUST

FILED
JUL 17 2000
COUNTY CLERK'S OFFICE
NEW YORK

5 SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK

7	In re the Marriage of:	:	Index No. 99/121823
		:	OBJECTION TO THE
8	IN THE MATTER OF THE APPLCATION OF	:	VERIFIED PETITION OF BANKERS TRUST
		:	COMPANY OBJECTING TO THE SUBSTITUTION
9	BANKERS TRUST CMPANY OF NEW YORK	:	OF TRUSTEE
		:	
10	(f.k.a. DEUTSCHE BANK TRUST COMPANY)	:	
		:	
11	and BANKERS TRUST COMPANY,	:	
		:	
12	Petitioner,	:	
		:	
13	and	:	
		:	
14		:	
		:	
15	Respondent	:	
		:	

FILED
JUL 17 2000
COUNTY CLERK'S OFFICE
NEW YORK

17 I, Elisabeth Sichel do declare, under penalty of perjury, as follows:
18 1. I am the co-trustee with Bankers Trust Company of the Walter Sichel Trust.
19 My mother, Joan Sichel, is the lifetime beneficiary of said trust. At her
20 death, the trust assets are distributed equally between myself and my two
21 brothers, Daniel Sichel and Simon Sichel.
22 2. The document creating the trust specifically named Bankers Trust Company
23 as co-trustee. I have had nothing but problems with Bankers Trust Company's
24 handling of the trust since I became trustee, culminating, upon my father's
25 death in 1993, with the mishandling of the distribution made at that time.

Exhibit 118

1 3. The original trust was a testamentary trust set up by my grandfather
2 Walter Sichel. It provided income to my father for his life. Upon his death,
3 one-half of the assets were distributed to my brothers, and me and the other
4 half remained in trust for the benefit of my mother during her life.

5 4. Upon my father's death the Bank distributed various bonds in thirds to my
6 brothers and myself. This meant that we could not sell any bond unless all
7 three agreed. I had to figure out a better distribution that would allow each
8 of us the ability to independently sell the bonds we received. This is but
9 one example of the problems. Over the years, bonds have been "misplaced",
10 and various other mistakes have been made.

11 5. Because of the decline in interest rates, the income to my mother has
12 declined, while the fees charged by the bank have gone up. The fees are paid
13 disproportionately from income (2/3 from income and 1/3 from capital).

14 6. I and all of the beneficiaries have no interest in dealing with some
15 subsidiary of Bankers Trust Company. We do not wish to do business with any
16 subsidiary of Deutsche Bank, due to its role in World War II. It is morally
17 repugnant to us. In short, I am asking the Bank to simply resign. I wish to
18 continue as the sole trustee, or if that is not permissible under the terms
19 of the trust, to substitute a new trustee in place of Bankers Trust other
20 than a related company.

21 7. I am a Court Commissioner for the Superior Court of the State of
22 California, County of Riverside. Prior to taking the bench, I was an
23 attorney for 18 years. I believe I have the ability to act as sole trustee at
24 no fee, thereby benefiting the trust by increasing the income and preserving
25 capital. All of the beneficiaries are in agreement that the Bank resign and
that I act as sole trustee. They are willing to so state to the Court.

1 8. I am unable to attend the hearing on the short notice that I received,
2 nor was I able to retain an attorney. The hearing is set for a time when two
3 other bench officers are out on vacation and I cannot leave to attend the
4 hearing. If a hearing is required, I request a continuance to appear either
5 in person, or through an attorney.

6
7 9. I declare under penalty of perjury that the foregoing is true and correct
8 to the best of my knowledge, and if called to testify, I could and would
9 testify thereto.

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22
23
24
25

Dated this 29th day of November, 1999

By: Elisabeth Sichel
ELISABETH SICHEL
2580 CARLTON PL.
RIVERSIDE, CA 92507
909-683-4137
CO-TRUSTEE OF THE
WALTER SICHEL TRUST

1 **PROOF OF SERVICE BY MAIL**

2

3 I am over the age of eighteen. My business address is 2580 Carlton Place, Riverside, California. I served
4 the Objection to the Verified Pctition of Bankers Trust Company by enclosing it in an envelope and
5 depositing the sealed envelope with the United States Postal Service with postage fully prepaid. The
6 envelopes were addressed and mailed as follows:

7

8 Clerk of the Supreme Court of the State of New York, county of New York
9 60 Centre Street
10 New York, New York 10007

11

12

13 White & Case LLP
14 1155 Avenue of the Americas
15 New York, New York 10036

16

17 Bankers Trust
18 Attn: William J. Wilkie
19 280 Park Avenue
20 New York, New York 10017

21

22 This document was mailed on December 2, 1999 at Riverside, California by me.

23

24 I declare under penalty of perjury that the foregoing is true and correct.

25

26 Date: 12-2-99

27

28 Elisabeth Sichel

Elisabeth Sichel