

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

IN RE: OBEL JAMES

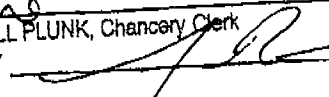
MICHAEL DRUIEN, FOR AND  
ON BEHALF OF OBEL JAMES

VS.

TERESA PANNELL AND GAYLE HUFFMAN

STATE OF MISSISSIPPI  
LAFAYETTE COUNTY

I, certify that the above and foregoing is a true and correct copy  
of Judgment  
as the same now appears on file in my office at Oxford, Mississippi.  
Given under my hand and seal of office, this 20 day  
of June 2002

BILL PLUNK, Chancery Clerk  
BY 

PLAINTIFF

D.C.  
CAUSE NO. 2000-325

DEFENDANTS

JUDGMENT

The Court has before it the Petition of Michael Druien, Conservator for Obel James, to approve accounting of Obel James' Assets, find Teresa Pannell in contempt and enter a judgment against Teresa Pannell and Gayle Huffman for the conversion of Obel James' assets. In support of his Petition, Michael Druien would show:

1. On July 3, 2001, this Court appointed Michael Druien as Conservator for Obel James which was subsequently formalized in an Order dated July 30, 2001. The Court adopts the findings of fact and conclusions of law set forth in that Order. This judgment amends and supplements that Order.

2. Through its Order, the Court directed Michael Druien to perform inventory and accounting of all the assets of Obel James and required Teresa Pannell to pay into the Court all assets belonging to Obel James in her possession.

3. Before Obel James was taken to Mississippi from Moscow, Tennessee (where he was residing) by Defendants, Gayle Huffman and Teresa Pannell, Obel James had assets worth over \$147,360.00 and received between \$1,039.00 and \$1,073.00 monthly from the Social Security Administration. Obel James' assets included certificates of deposit, checking account, annuities, a home in Memphis, Tennessee; vehicles and various personal property.

4. After the Conservatorship was established, Obel James had \$126,909.00 in assets as of September 5, 2001, the Defendants converted Obel James' Certificates of Deposits, annuity and funds from Obel James' checking account. The Court accepts and approves the inventory attached to the Conservator's Petition.

5. Teresa Pannell and Gayle Huffman acted in concert to convert \$39,884.61 of Obel



James' assets from May 2000, until the Conservator, Michael Druien, obtained control of all assets. Teresa Pannell continued to convert Obel James' assets after the trial of July 3, 2001. Teresa Pannell also converted Obel James' assets after this Court enjoined her from transferring any assets belonging to Obel James on September 29, 2000, even though she testified at trial that she had not used any of Obel James' assets even to pay his own bills.

7. The Court finds that Teresa Pannell is in contempt of Court for her willful violation of this Court's Order enjoining her from transferring assets belonging to Mr. James from and after September 29, 2000, and requiring her to return Mr. James' assets into the Court pursuant to this Court's Order of July 30, 2001. See In Re: Estate of Holloway, 631 So. 2d 127, 131 (Miss 1993) (Fiduciary found in contempt and judgment entered against fiduciary for the fiduciary's conversion and refusal to turn over ward's assets "because she had spent them.").

8. Teresa Pannell charged at least \$19,453.85 on credit cards she obtained in the name of Obel James and on one credit card which Obel James had issued prior to his moving to Mississippi. This included over \$4,250.00 in cash advances at casinos and cash advances and charges, some of which occurred even after this Court appointed Michael Druien as Conservator on July 3, 2001.

9. Teresa Pannell and Gayle Huffman converted a total of \$39,884.61 and fraudulently made \$19,453.89 in charges on Obel James' accounts for a loss to Obel James of \$60,962.46. The Court finds that both Teresa Pannell and Gayle Huffman breached the fiduciary duty they owed to their Uncle, Obel James. The Court hereby enters a judgment against Teresa Pannell and Gayle Huffman and finds them jointly liable for these losses. See Van Zandt v. Van Zandt, 227 Miss. 523, 86 So. 2d 466 (Miss. 1956), (a fiduciary who converts his ward's assets is liable for fraud); Harrington v. Boadmon, 674 So. 2d 1245 (Miss. 1996) (a fiduciary who invades a ward's assets violates his duties to the ward.) Though Gayle Huffman may not have received a direct benefit from the conversion of Obel James' funds, she acted in concert with Teresa Pannell and facilitated in the conversion of Obel James' assets. See: Bailey v. Richards, 236 Miss. 523, 111 So. 2d 5402, 408 (1959) (even though one defendant does not commit a tortious act, he is liable for damages for civil conspiracy when he aids a co-defendant in carrying out the tort); La Barre v. Gold, 520 So. 2d 1327, 1332 (Miss 1987) (A joint tortfeasor who aids in the conversion held liable for his participation in

the acts of conversion, though he receives no direct benefit from the tort.)

10. Michael Druien has incurred the following fees for psychological and medical expertise required by this Court and Mississippi law to ascertain Obel James' competency: John Harris, M.D., examination - \$300.00; John Harris, M.D., court appearance - \$2,500.00; Paul White, M.D., examination - \$577.00; Dr. Paul White, court appearance, \$2,100.00 for a total of \$5,477.00. Michel Druien shall be reimbursed for these expenses from funds of the ward, Obel James.

11. This Court previously approved payment of attorney's fees in the Order of July 30, 2001. Mississippi Code Ann. §93-13-259 entitles the Conservator to be reimbursed for these attorneys fees and expenses. Michael Druien engaged counsel to stop the conversion of Obel James' assets and to establish a Conservatorship to protect Obel James, who the Court has found not to be competent. These efforts helped protect additional conversion of Obel James' assets by the Defendants, Teresa Pannell and Gayle Huffman. The Court has examined the itemization of the time spent and the hourly rate charged of \$110.00 per hour and finds that the rate charged, the amount of legal fees incurred of \$30,736.18 and the litigation expenses of \$3,001.00, in addition to the expenses stated in paragraph 10, are reasonable.


12. Teresa Pannell paid \$5,300.00 out of Obel James' funds to the law firm of McDavid & Associates. The Court has ordered those funds to be reimbursed to Obel James by Teresa Pannell. That amount is included in the damages set forth in paragraph 9 of this Judgment. The law firm of McDavid & Associates are not parties to this litigation, the firm having withdrawn from its representation of Teresa Pannell and Gayle Huffman on August 9, 2001. The firm of McDavid & Associates not being a party to this action, the Court does not address the issue of whether the law firm should be required to reimburse Obel James for the \$5,300.00 paid from his funds, Obel James having been found incompetent by this Court.

13. The Court finds that fees and expenses set forth in paragraphs 10 and 11 of the judgment were incurred as a result of the actions of Teresa Pannell and Gayle Huffman. Accordingly, these attorney fees and expenses shall be jointly assessed against Teresa Pannell and Gayle Huffman. See: A&L, Inc. v. Grantham, 747 So. 2d 832 (Miss 1999), (award of attorney fees appropriate to reimburse legal costs incurred as a result of opposing party's fraudulent acts).

14. The Court finds that Teresa Pannell and Gayle Huffman are jointly and severely liable

for damages in the amount of \$98,552.68, which includes attorney fees and costs set forth heretofore. The judgement shall be assessed post-judgment interest at the legal rate of 8%, compounded. See Miss. Code Ann. §75-17-1 (2001); Van Ryan v. McMurtray, 505 So. 2d 1015, 1019 (Miss. 1987) (Chancellor has no discretion but to award compounded interest for breach of fiduciary duty); Jones v. Parker, 216 Miss. 64, 61 So. 2d 681 (1952), (compound interest assessed against fiduciary for abuse of trust).

ENTERED this the 20<sup>th</sup> day of June, 2002.

  
CHANCELLOR