

JULY 29TH 2014
MARK ACKER'S
MOTION FOR RELIEF OF
KIRK FRIEDLAND
COURT APPOINTED NEUTRAL FIDUCIARY

Your Honor,

I felt that it would be useful to write my presentation to the Court to identify exactly what I am requesting from my motion.

The wastefulness of this litigation which has continued for the past 6 years should have ended once the settlement agreement was signed on 11-16-2010; **nearly 4 years ago. But because of KF and his actions, it has not.**

At the hearing in your Court on October 16th and 17th 2013 the opposing side spent most of the two days blaming me for all the legal expenses and damages that the Estate/Trust have incurred since 2009. At the hearing I did not have the opportunity to defend myself and discredit nearly all of what I was being accused of. KF spent nearly his entire time on the stand accusing me of being the obstructionist and causing this estate millions of dollars. I can “without a doubt” state that **since** KF’s engagement on 12-02-2010, KF has been a principal cause that the assets of this estate have been greatly depleted and KF has sustained the friction between the three siblings.

I need to address one important point of reference. I worked with my father for over 28 years, till his passing in 2008. My father and I were able to build the business from 4 employees to 635 employees and sell the business in 1997 for approximately \$100 Million Dollars. There is absolutely no reason why I would destroy 28 years’ worth of hard work as KF/KA/DA have claimed.

I started the original litigation in 2009 to prevent KA & DA from implicating me with their misrepresentations to the IRS. KA & DA elected not to disclose one of my father’s companies with assets worth in excess of \$1.5 Million dollars. I made every attempt to have KA & DA correct their actions before I commenced the litigation; they refused and I declined to get involved with illegal activity.

The litigation started in February 2009 and ended on November 16th 2010. **This two-year litigation was at a personal expenditure of over \$2 Million Dollars.** I expended this large sum of money to protect the estate/trust, which included Arlene Acker (My father’s Wife) Robert Acker (My father’s Brother) and my entire family from KA/DA and their Professionals **illegal activities.** **Kirk Friedland extended the same activities for another 4 years.**

- The Settlement Agreement signed on 11-16-2010 – **I prevailed** and KA & DA and their Professionals Cost the Estate an estimated **\$6 Million Dollars in Legal Fees.**
- The agreement was written to give me the capacity to clean up the major devastation to the Estate/Trust and its assets caused by KA & DA and their Professionals.

There were certain stipulations which I agreed to in the Settlement Agreement; Based on the **fact** that Karen and David Acker and their Professionals committed “Purported” Tax Fraud and made many misrepresentations to the Federal Government during the 2 years of litigation, my attorneys and I insisted that they defend the #706/Federal Filings and deal with the NY Litigation filed by my father’s wife related to the accounting of the Estate/Trust, **they accepted our terms.**

- Moses & Singer’s (My father’s original attorneys) sent a close projection of the value of the Estate/Trust to the IRS in December 2008.
- When KA/DA and their professionals filed the #706 in May 2009 they reduced the value the Entire Estate/Trust by approximately **\$12 Million dollars** from the Moses and Singers submittal to the IRS.
- The defense of the Accounting Litigation, which included the Marital Trust, was filed by my father’s wife Arlene Acker. My Father’s Estate upon his passing required a **\$3 Million Dollar payment** upon his passing. KA/DA and their Professionals decided not to fund the Marital Trust. **This was also supported by KF.**

I requested that a **Neutral Fiduciary** be appointed because Karen and David Acker’s motives were mostly self-serving during the 2 years of litigation and my motive was to follow my father’s wishes as per his will and memorandums.

“The justification to remove KF is imperative due to the additional devastation he has caused the Estate and Trust of Stanley Acker **for his own personal financial gain of approximately ½ Million dollars.**”

**KF/KA/DA and their professionals have lost 5 out of 6
Legal cases to date and the last one is pending in your Court.
The 5 cases they lost are all being appealed
By KF/KA/DA costing the Estate/Trust
Well in excess of a few Hundred Thousand Dollars.**

KF's actions since his engagement cost this Estate/Trust an additional **\$4 Million Dollars in Legal Fees**; this does not include what the final decision by the Federal Government on the overall Estate/Trust liabilities will be.

KF approved many IRS and Federal Tax Appeal activities, which were very questionable; those approvals initiated a Federal Investigation and an indefinite hold on the Federal Tax Appeal.

1. **Critical Issue: 12-02-2010** – KF states he will maintain a “**status quo**” of the Administration of the Estate/Trust by using the Tannenbaum Firm and the Proskauer Firm on a go forward basis. Despite the fact that I did not have counsel at that time, I requested KF to look for new counsel who would be neutral and impartial going forward to finish the Estate/Trust administration ASAP. (KF stated he would not look for new counsel)
 - **KF – Created a Major Conflict of Interest**
2. **Critical Issue: IRS advised KF/KA/DA** not to use Estate/Trust funds for three non-estate/trust entities, which are owned by the three siblings.
 - **KF** as of this date is still approving payments from the Estate/Trust to pay for Services rendered for Acker Holdings, LLC – KMD Management – Blue Gate Development Corp. (**All non-estate/trust entities**)
3. **Critical Issue: KF** allowed KA/DA and their professionals to release Federal Returns without my review prior to mailing; my attorney's requested an opportunity to review the returns before they were mailed – **Kirk denied that request.**
4. **Critical Issue: KF** knows that KA/DA and their Professionals are using an **Unsigned FLP agreement**, a Signed FLP agreement by Stanley Acker was found in 2012. KF under the objections of my attorneys and myself ignored this and allowed KA/DA and their Professionals to continue using the unsigned document which will have a major financial impact to the entire estate/trust of Stanley Acker. They have an obligation to advise the IRS, which to the best of my knowledge they have not done.
5. **Critical Issue: KF** has knowingly paid the Tannenbaum Firm and the Proskauer Firm for Services rendered **prior** to the settlement agreement – My estimate is KF released well in excess of \$500,000 dollars, which the Settlement Agreement prohibited.

6. **Critical Issue:** April & May of 2012 Kirk Friedland realized that all my past comments and positions that he kept on ignoring generated (2) deficiency letters **from the IRS** totaling **\$13,000,000.00 Million Dollars.** KF's attempt to correct his past actions was convincing Karen and David Acker to hire Richard Paladino who KF share's common office space with. Richard Paladino has claimed to have long-term connections to the Florida IRS who audited this Estate/Trust.
- Richard Paladino's actions eventually initiated a **Treasury Department Investigation** upon the Florida IRS individuals that he was dealing with **who worked on this Estate/Trust.**

Your Honor,

This devastation to the Estate/Trust needs to end.

The only way to accomplish this is by removing Kirk Friedland as a Co-Personal Representative of the Estate/Trust of Stanley Acker.

I respectfully request the following:

1. I request that your Honor appoint a new Co-Personal Representative to replace Kirk Friedland.
2. Once the new appointee is engaged, I would also request the Tannenbaum Firm, the Proskauer Firm, Richard Paladino's Firm, Peter Forman's Firm be relieved from representing this Estate/Trust, which will hopefully end the Conflict of Interest that Kirk Friedland created.
3. KA/DA's entire professional team in Florida and NY should be prohibited from being paid by this Estate/Trust due to the conflict of interest created by Kirk Friedland is corrected with new representation. My last count was KF/KA/DA are currently engaging **7 Professional Firms**.
4. I respectfully request that this Court insist that my Legal Rights be honored by having the Estate/Trust pay for my Professionals in accordance with Florida State Law. My actions over the past 6 years were to protect this Estate/Trust from illegal activities, not all benefits to the Estate/Trust will relate to dollars in the way KF/KA/DA wished it to be.
5. I would also request your Honor issue an order for a full review of all the fees paid to all the professionals by an outside/independent auditing firm to determine the reasonableness to what they charged the Estate/Trust. This should include Karen and David Acker's Professionals, Kirk Friedland and any other professionals paid by this Estate/Trust that I am not unaware of. This order should include all the Florida and New York Professionals. **I am requesting this because my projection is that the Estate/Trust and its Co-Personal Representatives have amassed approximately \$10,000,000.00 Million dollars in Professional Fees.**

Respectively Submitted,

Mark Acker
Co-Personal Representative
Of the Estate of Stanley Acker

Save – If I need the following

7. KF states **“he does not support the Notice of Appeal”** by KA/DA their Professionals on this Courts Fee Dispute Decision. I have evidence to the contrary.
8. KF has allowed KA/DA to use estate/trust property for personal use – **KF charged me \$66,353.34 for the offices at 150 Burd St.** Kirks calculations were severely skewed due to his adversarial position with me.
9. KF has allowed KA/DA to retain all the Estate/Trust documentation that was Moved by them during the original litigation to KA’s personal offices @ 46 South Broadway, Nyack NY. My access is almost non-existent, I made many pleas’ to KF to move the offices back to an Estate/Trust property, which he refused to do.
10. (2) Memorandum of wishes that my father left after his passing still has not been distributed. Since KF engagement my attorneys and I have requested that the items on the memorandums be distributed per my father’s wishes. As of 07-29-14 – 6 years later KA/DA still maintain those items in their possession, KF has not addressed the issue related to the memorandums that exist.