

NO. PR-11-3238-1

IN RE: ESTATE OF	§	IN THE PROBATE COURT
	§	
MAX D. HOPPER,	§	
	§	
DECEASED	§	
	§	
_____	§	
JO N. HOPPER,	§	
	§	
Plaintiff,	§	NO. 1
	§	
v.	§	
	§	
JP MORGAN CHASE, N.A., STEPHEN	§	
B. HOPPER and LAURA S. WASSMER,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**NON-PARTY J.P. MORGAN SECURITIES, LLC’S OBJECTIONS TO SUBPOENA
AND MOTION FOR PROTECTIVE ORDER**

Pursuant to Texas Rules of Civil Procedure 176.6 and 192.6, non-party J.P. Morgan Securities, LLC (“JPMS”) files the following objections and motion for protective order in response to Defendants Stephen Hopper’s and Laura Wassmer’s (the “Heirs”) “Subpoena Duces Tecum For Non-Party Production of Documents” (the “Subpoena”), as follows:

INTRODUCTION

On July 11, 2016, the Heirs served the Subpoena on non-party J.P. Morgan Securities, LLC (**Exhibit A**). Because the requests for production stated in the Subpoena are outside the scope of permissible discovery from non-party JPMS, it objects to each request as stated below. Additionally, JPMS is informed¹ that all of the documents requested in the Subpoena that are actually relevant to this dispute have already been produced by JPMorgan Chase Bank, N.A. (“JPMorgan,” a party to this case in its corporate capacity and in its capacity as the independent

¹ See JPMorgan Chase Bank, N.A.’s Joint Motion for Protective Order, filed July 21, 2016.

administrator of the Estate of Max Hopper). Therefore, the Subpoena requesting the same documents from non-party JPMS constitutes an “undue burden, unnecessary expense, harassment, [and] annoyance” under Rule 192.6(a) and Court should enter a protective order prohibiting the requested discovery from non-party JPMS.

I. OBJECTIONS

JPMS states the following responses and objections to the requests in the Subpoena:

Request No. 1. Any and all documents relating to Todd Alan Baird’s separation from employment with J.P. Morgan Securities, LLC, insofar as such separation related in any way to Jo N. Hopper, JP Morgan Chase Bank, N.A.’s administration of the estate of Max D. Hopper, or the management of Jo N. Hopper’s funds as part of JP Morgan Chase, N.A.’s Private Banking Group.

RESPONSE: No items have been identified—after a diligent search—that are responsive to this request.²

Request No. 2. Any and all documents containing or evidencing communication occurring from January 25, 2010 to June 31, 2015 between Todd Alan Baird and JP Morgan Chase Bank, N.A., as independent administrator of the estate of Max D. Hopper, relating to Jo N. Hopper’s managed accounts.

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. JPMS further objects to this request on the basis that it is informed that all relevant, non-privileged communications between Todd Baird and JP Morgan Chase Bank, N.A., as independent administrator of the estate of Max D. Hopper relating to Jo N. Hopper’s accounts have already been produced by JPMorgan Chase Bank, N.A.

Request No. 3. Any and all documents containing or evidencing communication between Todd Alan Baird and Susan Novak occurring from January 25, 2010 to June 31, 2015 relating to Jo Hopper or to JP Morgan Chase Bank, N.A.’s administration of the estate of Max D. Hopper.

² Regarding Request No. 1, the Heirs and Mrs. Hopper deposed non-party Mr. Baird on June 22, 2016. He testified that he changed employers in May 2015 for a better opportunity, and for no other reason. Deposition of Todd Baird at 25:15-26:2. Additionally, Mr. Baird testified that he did not change employers until May of 2015 – four years after Mrs. Hopper closed her brokerage account. Also, JPMS is informed that JPMorgan has already produced thousands of emails to and from Todd Baird regarding Mrs. Hopper or the administration of the Estate of Max Hopper, and that neither his deposition testimony, nor any of the thousands of emails in any way suggests that his decision to change employers in May 2015 “related in any way to Jo N. Hopper, JP Morgan Chase Bank, N.A.’s administration of the estate of Max D. Hopper, or the management of Jo N. Hopper’s funds as part of JP Morgan Chase, N.A.’s Private Banking Group.”

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. JPMS further objects to this request on the basis that it is informed that all relevant, non-privileged communications between Todd Baird and Susan Novak during the relevant time period relating to Jo Hopper or to JP Morgan Chase Bank, N.A.'s administration of the estate of Max D. Hopper have already been produced by JPMorgan Chase Bank, N.A.

Request No. 4. Any and all documents bearing Jo Hopper's signature, whether such signature is hand-written or electronic.

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 5. Any and all documents containing or evidencing JP Morgan Chase Bank, N.A.'s desire to retain Jo Hopper as a client.

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, vague, ambiguous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 6. Any and all documents containing or evidencing J.P. Morgan Securities, LLC's desire to retain Jo Hopper as a customer.

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, vague, ambiguous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 7. Any and all documents created between January 25, 2010 and June 31, 2015 referencing Laura S. Wassmer.

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 8. Any and all documents created between January 25, 2010 and June 31, 2015 referencing Stephen B. Hopper.

RESPONSE: JPMS objects to this request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

II. MOTION FOR PROTECTIVE ORDER

A. Procedure: Rules 176.6(e) and 192.6.

Texas Rule of Civil Procedure 176.6 governing subpoenas provides:

(e) **Protective orders.** A person commanded to appear at a deposition, hearing, or trial, or to produce and permit inspection and copying of designated documents and things, and any other

person affected by the subpoena, **may move for a protective order under Rule 192.6(b)**--before the time specified for compliance--either in the court in which the action is pending or in a district court in the county where the subpoena was served. The person must serve the motion on all parties in accordance with Rule 21a. A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court. The party requesting the subpoena may seek such an order at any time after the motion for protection is filed.

TEX. R. CIV. P. 176.6(e) (emphasis added). Thus, JPMS may move for a protective order under Rule 192.6(b).

In turn, Rule 192.6(b) provides that:

(b) **Order.** To protect the movant from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights, the court may make any order in the interest of justice and may - among other things - order that:

(1) the requested discovery not be sought in whole or in part; . . .

TEX. R. CIV. P. 192.6(b). As discussed above, JPMS is informed that JPMorgan has already produced all of the documents requested in the Subpoena that have any bearing on this dispute. Therefore, the Subpoena to JPMS serves no legitimate purpose, and represents only an undue burden, unnecessary expense, harassment, and annoyance to JPMorgan.

B. The Documents Requested in the Subpoena

The Subpoena seeks production of the following documents from JPMS:

1. Any and all documents relating to Todd Alan Baird's separation from employment with J.P. Morgan Securities, LLC, insofar as such separation related in any way to Jo N. Hopper, JP Morgan Chase Bank, N.A.'s administration of the estate of Max D. Hopper, or the management of Jo N. Hopper's funds as part of JP Morgan Chase, N.A.'s Private Banking Group.
2. Any and all documents containing or evidencing communication occurring from January 25, 2010 to June 31, 2015 between Todd Alan Baird and JP Morgan Chase Bank, N.A., as independent

administrator of the estate of Max D. Hopper, relating to Jo N. Hopper's managed accounts.

3. Any and all documents containing or evidencing communication between Todd Alan Baird and Susan Novak occurring from January 25, 2010 to June 31, 2015 relating to Jo Hopper or to JP Morgan Chase Bank, N.A.'s administration of the estate of Max D. Hopper.

4. Any and all documents bearing Jo Hopper's signature, whether such signature is hand-written or electronic.

5. Any and all documents containing or evidencing JP Morgan Chase Bank, N.A.'s desire to retain Jo Hopper as a client.

6. Any and all documents containing or evidencing J.P. Morgan Securities, LLC's desire to retain Jo Hopper as a customer.

7. Any and all documents created between January 25, 2010 and June 31, 2015 referencing Laura S. Wassmer.

8. Any and all documents created between January 25, 2010 and June 31, 2015 referencing Stephen B. Hopper.

Exhibit A. JPMorgan Securities, LLC will address each request by category.

1. Incorporation of Objections

JPMS hereby incorporates each of its objections, stated above, as a basis for granting its motion for protective order.

2. Request Nos. 2-3

Regarding Request Nos. 2-3, JPMS is informed that JPMorgan has already produced all relevant documents responsive to these requests. Specifically, JPMS is informed that JPMorgan has produced all of Todd Baird's responsive, non-privileged emails sent or received from January 1, 2010 to August 31, 2011 containing the search terms "Hopper," "Wassmer," or "Robledo." This date range fully covers the time period relevant to Todd Baird, from before JPMorgan became involved with the Estate of Max Hopper until after Mrs. Hopper closed her

brokerage account in June 2011. Accordingly, because the Heirs already have the relevant documents, Request Nos. 2-3 serve no legitimate purpose. To have a non-party search its records, conduct reviews for responsiveness and privilege, and then produce the same documents that have already been produced amounts only to an undue burden, unnecessary expense, harassment, and annoyance. As such, the requested discovery should be prohibited under Rule 192.6(b).

3. Request Nos. 4-8

Finally, Requests Nos. 4-8 are extremely broad, and again, JPMs is informed that the relevant, non-privileged documents have already been produced by JPMorgan. The Heirs have no basis to require JPMS, a non-party, to produce documents that have already been produced by JPMorgan. The Heirs cannot explain why they should be entitled to such documents, or what purpose they may serve in this case. And, as demonstrated by the extreme breadth of the requests, they are not tailored in any way to the issues actually presented in this case. Because these requests represent only an undue burden, unnecessary expense, harassment, and annoyance to non-party JPMS, the requested discovery should be prohibited under Rule 192.6(b).

C. Costs of Searching, Reviewing, and Producing Documents

Given that the Subpoena calls for a complete duplication by a non-party of a production already made by JPMorgan, in the event that the Heirs are successful in arguing that their Subpoena to non-party JPMS should be enforced in any respect, JPMS respectfully requests that the Court order that the Heirs must bear the cost (including attorneys' fees) of JPMS's search for records, review of those records for responsiveness and privilege, and production under Rule 192.6(b).

CONCLUSION

JPMS objects to each of the requests for documents stated in the Heirs' Subpoena. Based upon those objections, as well as the fact that the requests represent only an undue burden, unnecessary expense, harassment, and annoyance, the Court should grant JPMS's Motion for Protective Order. JPMS is informed that JPMorgan, as a party to this case, has already produced all of the relevant documents sought by the Subpoena. The Heirs have no legitimate basis for requesting the same documents from a non-party, and have failed to tailor their requests for documents in any way to the issues present in this case. In the event that the Court allows the Heirs to subpoena any documents from JPMS, the Court should enter an order under Rule 192.6(b)(4) ordering the Heirs to pay the costs, including attorneys' fees, for JPMS's search for, review of, and production of those documents.

WHEREFORE, J.P. Morgan Securities, LLC respectfully requests that the Court: (1) sustain its objections, (2) grant this motion and enter a protective order under Rule 192.6(b)(1) stating that the discovery requested in the Subpoena "not be sought." However, in the event that the Court allows the Heirs to subpoena any documents from JPMS, JPMS respectfully requests that the Court enter an order under Rule 192.6(b)(4) ordering the Heirs to pay the costs, including attorneys' fees, for JPMS's search for, review of, and production of documents.

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**ATTORNEYS FOR J.P. MORGAN
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record via the electronic service manager and/or by email on this 21st day of July, 2016.

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