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NO. PR-10-1517-3

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IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

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§
§
§

IN THE PROBATE COURT
JOHN F. WARNER
COUNTY CLERK
DALLAS COUNTY
NO. 3
DALLAS COUNTY, TEXAS

INDEPENDENT ADMINISTRATOR'S COMPLAINT TO COMPEL DELIVERY OF PAPERS BELONGING TO THE ESTATE OF MAX D. HOPPER

JPMorgan Chase Bank, N.A. (the "Administrator"), in its capacity as Independent Administrator (the "Administrator") of the Estate of Max Hopper (the "Estate"), files this complaint under Texas Probate Code sections 75 and 232 to compel delivery of papers belonging to the estate currently in the possession of Sarah Jane Pate Williamson, C.P.A., PC. ("Ms. Williamson"), as follows:

CITATION ISSUED 8.29.11

1. Ms. Williamson, whose business address is 5646 Milton Street, Suite 920, Dallas, Texas 75206-3937, was the accountant for both Max Hopper (the "Decedent"), and his wife, Jo Hopper, during the Decedent's lifetime. Ms. Williamson continues to serve as the accountant for the Estate. The Administrator understands that Ms. Williamson also continues to serve as the accountant for Jo Hopper. The Administrator has attempted informally to meet with Ms. Williamson on multiple occasions and to obtain copies of any records she may have in her possession related to the Estate, or to the Decedent, his separate property, or community property of the Decedent and Jo Hopper (the "Williamson Documents").

2. On July 13, 2011, the Administrator sent Ms. Williamson a written request for copies of the Williamson Documents. (See **Exhibit A**). Counsel for the Administrator followed this request with a July 14, 2011 formal demand for delivery of the Williamson Documents. (See

Exhibit B). The Administrator was then notified that multiple boxes of such documents exist, and are currently in the possession of Ms. Williamson's attorney. (See **Exhibit C**).

3. However, the Administrator is informed that Jo Hopper, through counsel, has insisted that Ms. Williamson and/or her counsel not deliver her files to the Administrator until a protective order is entered. (See **Exhibit D**).

4. Since that time, the Administrator, in an effort to accommodate within reason Jo Hopper's confidentiality concerns, has been working with Jo Hopper's counsel on an agreed protective order. The Administrator also has sought to involve the attorneys for Max Hopper's children, Stephen Hopper and Laura Wassmer, in this process in an effort to reach an agreement on a protective order. However, the parties have not been able to reach agreement on an order.

5. Ms. Williamson's counsel has made most of the Williamson Documents available for review, but not copying, by the Administrator at his offices. However, Ms. Williamson's counsel has withheld certain of the Williamson Documents (the "Withheld Documents") from the Administrator's review at the direction of Jo Hopper's counsel. Jo Hopper's counsel apparently contends that the Withheld Documents relate solely to the business or personal affairs of Jo Hopper. (See **Exhibits E and D**). Ms. Williamson's counsel had stated his intention to provide the Administrator with a log generally identifying any documents withheld from the Williamson Production. (See **Exhibits F and G**). However, Jo Hopper's counsel apparently now has instructed him not to provide any such log. (See **Exhibit E**).

6. The Administrator has a right to the Williamson Documents under Texas Probate Code section 232, which provides that "[t]he personal representative of an estate, immediately after receiving letters, shall collect and take into possession the personal property, record books, title papers, and other business papers of the estate." The scope of the Administrator's right to

these documents also is buttressed by Texas Probate Code section 177, under which the Administrator "is entitled to administer the entire community estate, including the part which was by law under the management of the deceased spouse during the continuance of the marriage." As the Williamson Documents were either Decedent's individual records/papers, part of the entire community estate, under the management of the Decedent during the continuance of the marriage, or post mortem documents pertaining to the Estate, the Administrator is entitled to take possession of those documents.

7. Texas Probate Code section 75 provides that:

On sworn written complaint that any person has . . . any papers belonging to the estate of a testator or intestate, the county judge shall cause said person to be cited by personal service to appear before him and show cause why he should not deliver such papers to the executor or administrator.


8. Thus, the Administrator is entitled to the Williamson Documents. The Administrator respectfully requests that the Court order Sarah Williamson to appear and show cause under Texas Probate Code sections 75, 232 and 177 why she should not deliver the Williamson Documents, including the Withheld Documents, to the Administrator. In the alternative, as to the Withheld Documents, the Administrator requests that the Court order Ms. Williamson to submit the Withheld Documents to the Court for its *in camera* review to determine whether they should be turned over to the Administrator. The Administrator is not opposed to the entry of a protective order that is reasonable in scope and that is designed to protect from disclosure to third parties the personal information of Jo Hopper that is contained in the Williamson Documents so long as that order does not impair the ability of the Administrator to administer the Estate, including the Administrator's fiduciary obligation to disclose to Estate beneficiaries information that the Administrator believes is material information pertaining to the

administration of the Estate. Attached as **Exhibit H** is a proposed protective order that is acceptable in scope to the Administrator.¹

WHEREFORE, JPMC., in its capacity as Administrator, respectfully requests the relief set forth above.

Respectfully submitted,

HUNTON & WILLIAMS LLP

By: 

Thomas H. Cantrill
State Bar No. 03765950
John C. Eichman
State Bar No. 06494800

1445 Ross Avenue, Suite 3700
Dallas, Texas 75202-2700
Telephone: (214) 468-3300
Telecopy: (214) 468-3599

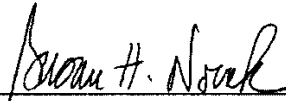
**ATTORNEYS FOR
JPMORGAN CHASE BANK, N.A.
IN ITS CAPACITY AS INDEPENDENT
ADMINISTRATOR OF THE ESTATE
OF MAX D. HOPPER, DECEASED**

¹ This proposed protective order was originally prepared by Jo Hopper's counsel but now also reflects the Independent Administrator's changes. Jo Hopper's counsel has rejected some of those changes. The Independent Administrator has requested, but has not received, substantive comments on this proposed order from counsel for the Decedent's children.

VERIFICATION


STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Susan H. Novak, being first duly sworn, deposes and says that she is a Senior Estate Officer of JPMorgan Chase Bank, N.A., acting in its capacity as Independent Administrator of the Estate of Max. D. Hopper, Deceased, that she has read the foregoing Complaint to Compel Delivery of Papers Belonging to the Estate of Max D. Hopper, that the facts stated in the complaint are true and correct to the extent such facts are based upon her personal knowledge, and to the extent such facts are not based upon her personal knowledge, that she is informed and believes such facts are true and correct.

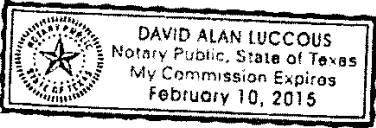


Susan H. Novak
Senior Estate Officer
JPMorgan Chase Bank, N.A.
Independent Administrator of
the Estate of Max. D. Hopper, Deceased

SUBSCRIBED AND SWORN TO BEFORE ME this 22 day of August, 2011 to certify which witness my hand and seal of office.



Notary Public



Notary Seal Showing Printed Name
And Commission Expiration Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served by electronic mail and certified mail, return receipt requested on the following counsel of record on the 22nd day of August, 2011:

James Albert Jennings
Erhard & Jennings, P.C.
1601 Elm Street, Suit 4242
Dallas, Texas 75201
Attorney for Jo N. Hopper

Michael L. Graham
Janet P. Strong
The Graham Law Firm, P.C.
100 Highland Park Village, Suite 200
Dallas, Texas 75205
Attorney for Jo N. Hopper

Gary Stolbach
Melinda H. Sims
Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Suite 500
Dallas, Texas 75254-1449
Attorney for Laura Wassmer and Stephen Hopper

David M. Taylor
Thompson Coe
700 North Pearl Street
Twenty-Fifth Floor, Plaza of the Americas
Dallas, Texas 75201
Attorney for Sarah Williamson

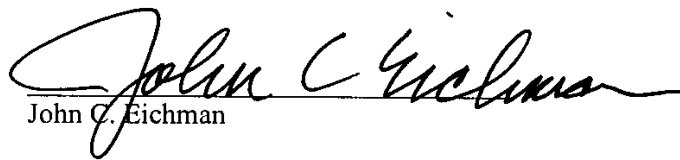

John C. Eichman

EXHIBIT A

J.P.Morgan

July 13, 2011

Sarah Williamson, CPA
5646 Milton
Suite 920
Dallas, TX 75206

Re: Estate of Max D. Hopper

Dear Sarah:

It was nice to talk to you yesterday. As you know, I have been trying to meet with you, unsuccessfully, for several months regarding the Max Hopper Estate and the information the estate is requesting to fulfill its duty to identify all assets owned by Max Hopper.

I understand that you are leaving town on Friday for an extended vacation and will not return until August 9, 2011. In that regard, this letter will outline what information the estate is requesting, and entitled to, for the completion of the administration of Max Hopper's estate.

Please forward to me a complete copy of the entire file you have for Max Hopper, including matters that are stored electronically and any correspondence with Jo Hopper that relates in any way to Max Hopper's property or any of his tax returns. These copies should include the entire community estate, including Max Hopper's separate property.

As we discussed yesterday, due to the time frame you will be away from the office, please have someone in your office copy the requested documents and information requested. I would expect that this requested information will be available either before or shortly after your return from vacation.

Thanks for your attention to this important matter. Please forward your invoices for the copying of this requested information to me for payment by the estate.

Sincerely,



Susan Novak
Vice President
214 965-3465

EXHIBIT B

HUNTON & WILLIAMS

HUNTON & WILLIAMS LLP
FOUNTAIN PLACE
1445 ROSS AVENUE
SUITE 3700
DALLAS, TEXAS 75202-2799

TEL 214 • 979 • 3000
FAX 214 • 880 • 0011

TOM CANTRILL
DIRECT DIAL: 214-468-3311
EMAIL: tcanttrill@hunton.com

FILE NO: 76995.000001

July 14, 2011

(Via Email: beencounr@aol.com)

Ms. Sarah Williamson, CPA
5646 Milton, Suite 920
Dallas, Texas 75206

Re: **Estate of Max D. Hopper**

Dear Sarah:

I am sorry that you and your firm now seem to be drawn into a dispute concerning the right of his independent administrator to have direct access to all or your files and work papers pertaining in any way to Mr. Hopper, but you are, and I must observe, this appears to be caused by your own interpretation of who is your client and what is the right of your client to access his or her records. Susan has repeatedly asked for those records. Her requests have been made over a period of months, and it is time to bring this matter to a satisfactory conclusion.

First, a few facts and statements of law for your consideration. JP Morgan Chase Bank, N.A. is the duly appointed and currently acting Independent Administrator of the Estate of Max D. Hopper. I assume you do not question this, for Susan has recently sent you current Letters of Administration evidencing that appointment and its current status. Under Section 177 of the Texas Probate Code, an acting independent administrator is entitled to administer, to the exclusion of the surviving spouse, all of the separate property of the decedent, and "also the community property which was by law under the management of the deceased spouse during the continuation of the marriage and all of the community property that was under the joint control of the spouses during the continuation of the marriage." I attach a copy of the probate inventory that has been filed in the Hopper estate administration. The independent administrator is unaware of any community assets that would not be subject to the control and administration of the independent administrator, and the only separate property Mrs. Hopper asserts belongs to her would be items of tangible personal property, including some bottles of

ATLANTA AUSTIN BANGKOK BEIJING BRUSSELS CHARLOTTE DALLAS HOUSTON LONDON LOS ANGELES
McLEAN MIAMI NEW YORK NORFOLK RALEIGH RICHMOND SAN FRANCISCO TOKYO WASHINGTON
www.hunton.com

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HUNTON & WILLIAMS

Ms. Sarah Williamson
July 14, 2011
Page 2

wine. We doubt that any of these items claimed as separate property by Mrs. Hopper pertain to any records you might hold, and to the extent you do have invoices or other records showing Mr. Hopper's purchase or gift of an item now claimed by Mrs. Hopper as her separate property, that accounting record, as opposed to the item itself, remains a record of Mr. Hopper.

I do not have a copy of any written request you may have made to the staffer at the Texas State Board of Public Accountancy, for judging from the response you received dated June 29, your request was made orally. Looking at the response, the staffer evidently was under the impression that the bank has been appointed independent administrator of the children's share (no mention of the administrator's duty to administer the full community and to address and resolve community claims, and no mention that Jo has a beneficial interest (intestate share) in Max's separate property and a homestead right in the home). It also concludes "the wife is still Ms. Williamson's client" without mentioning the estate is also your client.

It cannot be disputed that you represented both Jo Hopper and Max Hopper while Max was living. You may have had most of your conversations with Mrs. Hopper, but you represented both of them, and prepared tax returns both of them signed. You have a current representation of the estate. To take the position that the independent executor is not entitled to Mr. Hopper's records is totally unsupported.

It should not be necessary to cite a list of authorities as to why Mr. Hopper's independent administrator has a right of direct access to your files pertaining to Mr. and Mrs. Hopper that are not attributable to something separate and distinct that you are doing for Mrs. Hopper with respect to her separate property assets (for example, any separate tax return for her filed pertaining to periods after Mr. Hopper's date of death). Even a cursory review of authorities supports that statement. For example, consider the following comment that was found in about five minutes time as a result of a Google search.

AICPA Professional Standards, ET Section 501, says holding back client records after they are requested is considered an act discreditable to the profession. Furthermore, in most states, holding such records hostage for fees would be considered a violation of state board of accountancy rules, subject to a citation, a fine-or worse. From a loss-prevention standpoint, it's usually unwise to add fuel to the fire by not cooperating with former clients' transition to another CPA.

At this point I am advising JP Morgan not to pursue a direct interview with you, for it does not want to do so if you insist that Mr. Jennings be present, and even if you were to agree

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WILLIAMS

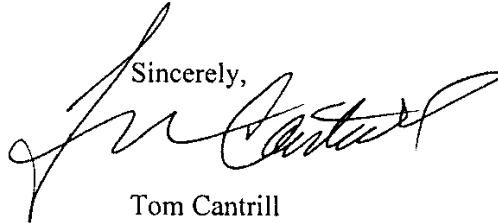
Ms. Sarah Williamson
July 14, 2011
Page 3

to participate in such an interview without Mr. Jennings being present, your ability or willingness to openly and completely respond to questions Susan might ask likely would be impacted by the conflicting claims you have received from us and from Mr. Jennings. We do, however, insist that you comply with the written request of Ms. Novak dated July 13, 2011. This should be done immediately. Although the administrator does not object to you giving copies to Mr. Jennings, we insist that our copies be sent no later than the date you send the material to Mr. Jennings. We also insist that our copies come from your firm with a statement that those copies contain the complete record of the all files and records, including electronic records, through the date of Mr. Hopper's death, and thereafter to the extent the records involve property in which Mr. Hopper's estate owns an interest.

I understand that you are leaving for a two week vacation. Assembly of these records should be an easy task for any professional in your firm, and we insist that if they are not fully provided to us by the date of your departure you make known to Ms. Novak and to me who will be the professional responsible for this reply in your absence.

If you continue to refuse to address and respond favorably to this request, we will institute and join you and your firm as a party to a show cause proceeding in the Probate Court in which we will ask the Court to order you to surrender the records Susan has requested. Further, we will resist paying for any of your time, expense (other than copying charges) and attorney's fees associated with the proceeding and in complying with any order the Court will enter.

Sincerely,



Tom Cantrill

THC:sb

cc: **(All Via Email)**

Mr. Michael L. Graham (mgraham@thegrahamlawfirm.com)
Mr. James A. Jennings (jjennings@erhardjennings.com)
Mr. Gary Stolbach (stolbach@gpm-law.com)
Mr. Lyle D. Pishny (lpishny@ropgage.com)
Ms. Susan H. Novak (susan.h.novak@jpmchase.com)
Mr. John Eichman (jeichman@hunton.com)

EXHIBIT C

From: Taylor, David [mailto:DTaylor@thompsoncoe.com]
Sent: Friday, July 22, 2011 4:22 PM
To: Eichman, John; Jajennings@aol.com
Subject: Hopper documents

As I previously indicated to both of you I have 3 banker boxes of Ms Williamson's documents which are primarily Hopper tax returns. I am prepared to produce a set to each of you anytime next week. Please agree on a confidentiality order and I can then give you the documents.

Attached is a general description.

THOMPSON
COE

David M. Taylor
Thompson Coe Cousins & Irons, L.L.P.
700 N. Pearl St. | 25th Floor | Dallas, TX. 75201
Ph: 214.871.8232 | Fax: 214.871.8209
dtaylor@thompsoncoe.com
[bio](#) | [vcard](#) | [web](#)

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EXHIBIT D

Eichman, John

From: Janet Elkins [janet@erhardjennings.com]
Sent: Wednesday, July 27, 2011 10:28 AM
To: Eichman, John
Cc: jajennings@aol.com; ktomlinson@erhardjennings.com; mmaf13@aol.com; 'Michael L Graham'; 'Janet Strong'
Subject: RE: FROM JAMES JENNINGS - Hopper Estate

Dear John,

I spoke to David yesterday, late. I am going by today to examine the files so I have a sense of what it actually in them. Assuming no surprises, I plan to be forwarding you early tomorrow the draft Protective Order we have been working on. I can't imagine that that is not soon enough.

On a different note, I don't know why you are optimistic that we will have a hearing before January – particularly given Gary Stolbach's memo last night.

You can expect to see something from us tomorrow.

Thanks,
Jim

From: Eichman, John [mailto:jeichman@hunton.com]
Sent: Wednesday, July 27, 2011 9:37 AM
To: Janet Elkins
Cc: jajennings@aol.com; Michael L Graham; dtaylor@thompsoncoe.com; Janet Strong; mmaf13@aol.com; Cantrill, Tom
Subject: RE: FROM JAMES JENNINGS - Hopper Estate

Jim,

My understanding is that David Taylor, pursuant to your earlier request, has reviewed the documents and plans to withhold and log those that relate to work performed solely for Mrs. Hopper. We will expect that any document withheld from the files David produces will be logged so that the court can weigh in on the issue as necessary.

Let's get this protective order done. We obviously would prefer not having to incur the expense of going to the court to get an order requiring David's client to turn her files over to the Administrator. Also, we expect that the objections to the inventory will be heard earlier than the January date--dragging this matter out that long makes little sense to the Administrator. Thanks.

John C. Eichman
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
(214) 468-3321
(214) 740-7118 (fax)

From: Janet Elkins [mailto:janet@erhardjennings.com]
Sent: Tuesday, July 26, 2011 4:35 PM
To: Eichman, John

8/19/2011

Cc: jajennings@aol.com; 'Michael L Graham'; dtaylor@thompsoncoe.com; 'Janet Strong'; mmf13@aol.com
Subject: RE: FROM JAMES JENNINGS - Hopper Estate

Dear John,

With due respect, we disagree. While Jo has an interest in all the records, the Estate may or may not have an interest in all the records. While Mr. Hopper may no longer be with us, Jo is still very much interested in her personal privacy. I can't imagine that a couple of days here or there makes any significant difference – particularly now that the hearing has been put into January of next year.

We intend to proceed as described in my prior email.

Jim

From: Eichman, John [mailto:jeichman@hunton.com]
Sent: Tuesday, July 26, 2011 4:28 PM
To: Janet Elkins
Cc: jajennings@aol.com; Michael L Graham; Janet Strong; dtaylor@thompsoncoe.com; mmf13@aol.com
Subject: RE: FROM JAMES JENNINGS - Hopper Estate

Jim,

What about the draft order I sent you yesterday (another copy attached) ? I don't see any reason to delay this process any further, particularly since the records we are talking about are the Estate's records.

John C. Eichman
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
(214) 468-3321
(214) 740-7118 (fax)

From: Janet Elkins [mailto:janet@erhardjennings.com]
Sent: Tuesday, July 26, 2011 4:12 PM
To: Eichman, John
Cc: jajennings@aol.com; 'Michael L Graham'; 'Janet Strong'; dtaylor@thompsoncoe.com; mmf13@aol.com
Subject: FROM JAMES JENNINGS - Hopper Estate

Dear John,

I have been working on a proposed form of Protective Order.

As you know, Mr. Graham is out of town. I have also tried to reach Mr. Taylor and haven't been able to get him. It strikes me that before I send the Order to you (since these are, after all, our client's records, I think it might be helpful if I stopped by David's office and took a quick look at what we are talking about before I bother to send you the draft Order. Assuming Davis is available, I'll try and do that tomorrow. After that, I can get back with you on the proposed language on the Order.

Thanks,
Jim

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8/19/2011

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Erhard & Jennings, a Professional Corporatiin

8/19/2011

EXHIBIT E

From: Janet Elkins [mailto:janet@erhardjennings.com]

Sent: Tuesday, August 16, 2011 12:08 PM

To: Eichman, John

Cc: jajennings@aol.com; 'Michael L Graham'; 'Janet Strong'; dtaylor@thompsoncoe.com; MMAF13@aol.com

Subject: FROM JAMES JENNINGS - Hopper Estate - Reply to your email of today's date at 9:47 am

Dear John,

Respectfully, we think you misunderstand the situation based on your latest email to David Taylor.

1. Every document in Ms. Williamson's possession, does not automatically "belong to", nor is it automatically reviewable by, the Estate.
2. There is no discovery request that we have seen to Ms. Williamson – just a lot of chest-beating about her records supposedly being the "Estate's" records.
3. Ms. Williamson's production, via allowing your review of the documents in David Taylor's office, has been entirely voluntary and not otherwise.
4. There are clearly documents that Ms. Williamson has in her possession that may be jointly accessed by both the Estate and Mrs. Hopper, as we've always maintained. But as the ethics opinion that Ms. Williamson has in her possession noted, there are privacy concerns as to some documents held by Ms. Williamson, in favor of Mrs. Hopper, even if the Estate can review them as well. This is just one of several reasons the Protective Order is necessary.
5. There is no requirement for a "privilege log" for documents that Ms. Williamson has received or sent "post" date of death, between her and her independent client, Mrs. Hopper, that the Estate has no facial claim to review. David Taylor doesn't have to give you a privilege log or anything else. The documents that we reserved are not in our view (nor do I think in David Taylor's) documents which the Estate has any ownership interests or ability to review absent a Court order. David Taylor doesn't have any obligation to make up a privilege log or "describe" anything to you – indeed Ms. Williamson has a duty of confidentiality toward her current client, Mrs. Hopper. In short, they are just not "Estate" documents. They are documents exchanged by and between Ms. Williamson and Mrs. Hopper post-death. That doesn't give you the automatic right to demand them or see them.
6. By the way, there are other documents that also fit that last category that we were prepared to let you see, irrespective of anything else, but if this nonsense continues on, we will advise David Taylor to withhold all post-death documents in Ms. Williamson's possession unless Ms. Williamson advises us (through David Taylor) that the Bank/Estate actually paid for the creation of such documents.

While we are at it, please advise exactly what the Bank has paid Ms. Williamson for doing, and when. There has been a lot of talk by your group that Ms. Williamson was the Bank's "accountant" as to the Estate in some respects, but beyond mere talk, we have been offered no proof of anything.

By the way, now that you have reviewed Ms. Williamson's production, Bates numbers 1-4427, I am sure you are forced to agree that they are completely innocuous and this whole "issue" as to the Williamson documents has been nothing but a tempest in a teapot. The Bank has had all the relevant information for a long, long time. Indeed, even Gary Stolbach acknowledged to us in writing the other day how completely open Jo had been about all of the financial records and turning them over to the Estate from the very beginning. It is the Bank that has not been forthcoming on a number of matters (as evidenced by the bizarre Inventory that was filed), not Mrs. Hopper.

I look forward to hearing from you along with your comments on the Protective Order which you have had for several days now (in fact a full week), without any comment.

Jim

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Erhard & Jennings, a Professional Corporation

EXHIBIT F

Eichman, John

From: Taylor, David [DTaylor@thompsoncoe.com]
Sent: Friday, July 15, 2011 7:14 PM
To: Eichman, John
Subject: Re: Estate of Max Hopper--Your Representation of Sarah Williamson

Very close. I had a document service pick up the documents. I did not see them

There may be documents that should not be produced from prior to his death but I cannot know until I look at them

Any document not produced will be identified similar to a privilege log assuming I can get my fees paid by Sarah or someone but I think that will be handled

David Taylor
Sent from my iPhone

On Jul 15, 2011, at 6:08 PM, "Eichman, John" <jeichman@hunton.com> wrote:

David,

Thanks for your time today and your efforts to deal with the Hopper files that Sarah Williamson has in her possession. I apologize in advance for doing this but, given some of the issues that have been swirling around the last few days, I just want to confirm the key points of our discussion.

You informed me that late yesterday you obtained from Sarah her entire paper file relating to the Hopper relationship. You also had her print the emails she has on her computer and instructed her to safeguard all other electronic documents. You have turned the files over to a copy service to make copies. You will be reviewing the documents early next week to determine which of them pertain solely to work performed for Mrs. Hopper after Mr. Hopper's death. You will be logging the group of documents that relate only to post-death work for Mrs. Hopper and will provide the interested parties with that log but do not expect to produce that group of documents to all the interested parties. You will want the interested parties to sign a protective order to protect the confidentiality of the other documents in Sarah's files and expect to produce all the other documents to the interested parties after the protective order is finalized. While your goal is to produce documents before Sarah returns from vacation, you want to communicate with her first.

You also mentioned that Sarah is concerned about being reimbursed for her time and for your fees in connection with this process. As I mentioned, I am not yet authorized to speak to those issues but we can address them later.

Let me know if I've misstated the gist of what you told me. And, again, thanks for bearing with me and my confirming email.

John

John C. Eichman
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
(214) 468-3321

8/19/2011

(214) 740-7118 (fax)

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8/19/2011



EXHIBIT G

From: Taylor, David [mailto:DTaylor@thompsoncoe.com]
Sent: Tuesday, August 16, 2011 9:54 AM
To: Eichman, John
Subject: RE: Hopper Documents

it is ready

From: Eichman, John [mailto:jeichman@hunton.com]
Sent: Tuesday, August 16, 2011 9:47 AM
To: Taylor, David
Cc: jjennings@erhardjennings.com
Subject: RE: Hopper Documents

David,

I am waiting to receive comments on the protective order from Stolbach's firm. In the meantime, when can we expect to receive the log of withheld documents?

John

John C. Eichman
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
(214) 468-3321
(214) 740-7118 (fax)

From: Taylor, David [mailto:DTaylor@thompsoncoe.com]
Sent: Tuesday, August 16, 2011 9:38 AM
To: Eichman, John
Cc: jjennings@erhardjennings.com
Subject: Hopper Documents

I want to get the documents out of my office. I spoke with Jim this morning and he says he is waiting on further comments on the protective order.

I know we are all busy but please try and resolve this issue so I can exit the scene. David

THOMPSON
COE

David M. Taylor
Thompson Coe Cousins & Irons, L.L.P.
700 N. Pearl St. | 25th Floor | Dallas, TX. 75201
Ph: 214.871.8232 | Fax: 214.871.8209
dtaylor@thompsoncoe.com
[bio](#) | [vcard](#) | [web](#)

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EXHIBIT H

NO. PR-10-1517-3

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

§
§
§
§
§

IN THE PROBATE COURT
NO. 3
DALLAS COUNTY, TEXAS

PROTECTIVE ORDER

Pursuant to Rule 192.6 of the Texas Rules of Civil Procedure, the Court makes the following orders regarding production of certain information, documents and tangible things which the parties anticipate being disclosed during the production of documents by Ms. Sara Williamson, CPA, to the parties (the "Williamson Production") and during pretrial discovery. The Court finds that certain documents, things or information produced in connection with this proceeding or which are, or may become, encompassed by discovery contain confidential information (particularly) as to the financial tax affairs of both the estate (the "Estate") of Max D. Hopper (the "Decedent") and his spouse Jo N. Hopper, in which the individuals to whom such information relates have an on-going and paramount interest in privacy. In an attempt to protect the privacy of such individuals and the confidential nature of such information, and agreeing that it would serve the interests of the parties to conduct discovery under a protective order, and for other good cause shown,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. **Scope.** This Protective Order shall govern the disclosure and use of information, documents and things in this proceeding designated as "CONFIDENTIAL INFORMATION" in accordance with the terms hereof. It also includes the procedures for challenging designations of confidentiality as relates to the matters referenced elsewhere herein. This Order shall also govern the post-trial disposition of all materials produced or disclosed and which are ultimately

determined by the Court (or by failure of any party to object), as being "CONFIDENTIAL INFORMATION" obtained through discovery. This Order may be invoked as to information, documents and things hereafter subject to discovery (only) under the Texas Rules of Civil Procedure from or against any party including, but not limited to, deposition testimony, testimony upon written questions, answers to interrogatories, answers to requests for admission and documents produced in response to document requests, subpoenas (to parties or third parties or witnesses) or otherwise, as it relates to the Williamson Production and to the tax and financial affairs of the Decedent, Mrs. Hopper and the Estate, generally.

2. Designation of Information.

a. Any party may designate, as appropriate, any part of the Williamson Production or any information produced hereafter in discovery as "CONFIDENTIAL INFORMATION" by marking it either as "CONFIDENTIAL" or as "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER," or by clearly identifying it using a similar designation. A party may make a designation of "CONFIDENTIAL INFORMATION" under this Order with respect to documents or other information produced by a third party by notifying the other parties in writing (and as to any part of the Williamson Production, Ms. Williamson and her counsel) and specifically identifying the documents or other information designated as "CONFIDENTIAL INFORMATION." With respect to answers (and including supplemental or amended answers) to interrogatories or answers to requests for admission, such designation shall be made at the time the answers or amended/supplemented answers are served. In the event a party designates any of the Williamson

Production as CONFIDENTIAL INFORMATION, Ms. Williamson or her counsel shall mark the copies that are produced or exchanged, in lieu of marking the original of a document, if the original is not produced. Originals shall be preserved for inspection where available. If any documents or material have multiple pages, this designation need only be placed on the first page of such document or material. With respect to a deposition transcript covering any CONFIDENTIAL INFORMATION, a party shall serve opposing counsel with a Notice giving written designation, by page and line, of the parts of the deposition to be treated as "CONFIDENTIAL INFORMATION" either within thirty (30) days after receipt of the transcript, or as to deposition transcript of a party, within thirty (30) days after receipt of a full and complete transcript signed by the party. To facilitate this procedure, all depositions involving or relating to the matters above shall be treated in their entirety as "CONFIDENTIAL INFORMATION" for thirty (30) days after taking and for thirty (30) days after issuance of a full and complete transcript from the court reporter. Additionally, information disclosed at a deposition may thereafter be designated by any party as "CONFIDENTIAL INFORMATION" by indication on the record at the deposition that a specific portion of testimony is so designated and subject to the terms of this Order (but no "blanket" designation is allowed as to deposition testimony). The portion of the deposition testimony designated as containing "CONFIDENTIAL INFORMATION" shall be stamped or otherwise designated by appropriate means by the court reporter as "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" and access thereto shall be limited as provided herein. Notwithstanding

any other provisions herein, all discovery responses, information, documents and tangible things produced without the "CONFIDENTIAL" designation clearly marked on them are outside the scope of this Order unless and until such time as the producing party gives such notice that such documents, things or information are confidential as provided for herein.

b. With respect to any documents, things or information designated as "CONFIDENTIAL INFORMATION" that are produced (if any) in non-paper form (including, without limitation, compact discs, diskettes, magnetic or electronic media, and other non-paper methods) and that are not susceptible to the imprinting of a stamp signifying their confidential nature, the producing party shall, to the extent practicable, produce such material with a cover labeled "CONFIDENTIAL" and shall inform the other party's counsel (or opposing counsel where a subpoena is involved) in writing of the "CONFIDENTIAL" designation of such material at the time it is produced. Only a party's counsel or the Bank may create paper versions of documents, things or information produced in non-paper form by the opposing party that are designated as "CONFIDENTIAL" in accordance with this paragraph. If a party's counsel prints or otherwise creates a paper "hard copy" of such materials, such counsel shall mark such document with the appropriate "CONFIDENTIAL" stamp or designation prior to distributing such material. The provisions of this paragraph shall only apply to material produced in non-paper forms, including without limitation, on compact discs, diskettes, magnetic or electronic media, and other non-paper methods.

c. If a party inadvertently or unintentionally produces or discloses confidential documents, tangible things or information without first marking or designating it as "CONFIDENTIAL INFORMATION" under the terms of this Order, such party shall not be deemed to have waived any claim of confidentiality, either as to the specific information disclosed or as to any other information relating thereto, and can still notify the other party in writing that it considers such items confidential and furnish a new copy of each such item clearly marked "CONFIDENTIAL", if done within sixty (60) days of the discovery by the producing party of the inadvertent production. Such items shall be treated appropriately from the date written notice of the designation is provided to the receiving party (but no penalty is associated with disclosure prior to the receipt of such late notice). Notwithstanding any other provisions herein, all discovery responses, information, documents and tangible things produced without the "CONFIDENTIAL" designation clearly marked on them should be deemed outside the scope of this Order unless and until such time as the producing party gives notice that such documents, things or information are confidential as provided for herein.

3. **"CONFIDENTIAL INFORMATION" Defined.** A party designating information (including the tax and financial information described above) as "CONFIDENTIAL INFORMATION" may make such designation only as to information which it believes **in good faith** is confidential, sensitive, or proprietary and entitled to protection. For the purposes of this Order, "CONFIDENTIAL INFORMATION" means business or personal information of any type, kind, or character which is designated as "CONFIDENTIAL INFORMATION" in the

manner provided herein. Information, material or documents that are publicly available, including a company's stock option information and the like, shall not be "CONFIDENTIAL INFORMATION." Nothing shall be regarded as "CONFIDENTIAL INFORMATION" if it is information that either:

- a. is in the public domain at the time of disclosure, as evidenced by a written document (merely being filed with the U.S. Treasury/IRS as a tax filing, does mean a document is determined "public" for purposes hereof);
- b. becomes part of the public domain through no fault of the other party, as evidenced by a written document;
- c. the receiving party can show that the information was already in its rightful and lawful possession at the time of disclosure; or
- d. the receiving party lawfully receives such information at a later date from a third party without restriction as to disclosure, provided such third party has the right to make the disclosure to the receiving party.

4. **Restrictions on Disclosure.** All "CONFIDENTIAL INFORMATION" produced or disclosed in this estate administration proceeding shall be subject to the following restrictions:

- a. Such documents, information and things shall not be used for any litigation, business, or other purpose other than in this proceeding;
- b. Such documents, information and things shall not be shown or communicated in any way inconsistent with the Order or to anyone other than "Qualified Persons," which persons receiving "CONFIDENTIAL INFORMATION" shall not make further disclosure to anyone except as allowed by this Order; and

c. Nothing in this Order shall be construed to limit in any way the right of the producing party to use its own "CONFIDENTIAL INFORMATION" for any purposes or to limit any party in using documents or information to which it has access by other legitimate means.

d. If Ms. Williamson later produces to the parties additional documents not part of the production on August ____, 2011, a party may invoke the terms of this Order as to any of those documents to which this Order is properly applicable.

All actions taken by the Bank, in its capacity as Independent Administrator, or in any other capacity, and by the Bank's counsel, with respect to any CONFIDENTIAL INFORMATION shall be deemed as actions taken in connection with this proceeding for purposes of this Order.

5. **Qualified Persons.** "Qualified Persons" means:

- a. the judge assigned to this case, personnel of the Court, court reporters, video equipment operators at depositions, any special master appointed by the Court, any judge with jurisdiction over this proceeding or any appeal hereof, and any authorized personnel of such appellate court;
- b. the parties, the officers, directors and employees of the parties, and persons being deposed;
- c. counsel for the parties and employees of such counsel, whose access to "CONFIDENTIAL INFORMATION" is necessary for the purposes of preparation, pretrial discovery, motions, trial, appeal, settlement or administration in connection with this proceeding.
- d. third parties retained by counsel for a party or by a party as consulting experts or expert witnesses for the purposes of preparation, pretrial discovery and

proceedings, trial, appeal, settlement or administration in connection with this proceeding;

e. third-party contractors or employees of third-party contractors involved, with respect to this proceeding, solely in one or more aspects of copying, organizing, filing, coding, converting, storing or retrieving documents or information at the direction of counsel for a party or the employees of such counsel;

f. any actual or prospective witness in this litigation, except that such a person may only be shown a matter designated "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" or the like, during, or during or in connection with the preparation for his or her actual or prospective testimony;

g. any other person who is designated as a Qualified Person by written authorization of the party that designated the information as "CONFIDENTIAL INFORMATION," or by the Order of this Court after notice to all parties and opportunity to be heard;

h. any person who is indicated on the document as being the author or recipient of the document or information, including the recipient of copies of the document; or to any other person who received, had a copy of or had seen a copy of the documents prior to its production in this proceeding. If "CONFIDENTIAL INFORMATION" is shown to any person other than the author, recipient or recipient of a copy, or who is not in a category designated in these subparts, ("a" - j") that person may not retain the document or a copy of the document;

- i. any person designated as a mediator in this action by either Court Order or agreement of all parties; and
- j. any person or entity to whom the Bank or its counsel believes CONFIDENTIAL INFORMATION must be disclosed in order for the Bank to properly administer the Estate.

Before disclosing "CONFIDENTIAL INFORMATION" to any person described in paragraphs (b) - (i) above, other than officers, directors and employees of the Bank, and experts and consultants retained by the Bank in its capacity as Independent Administrator, disclosing counsel must apprise the person of the existence and general terms and restrictions of this Order.

6. **Disclosure to Employees of the Designating Party.** The terms of this Order shall not prohibit disclosure by any party of the designating party's "CONFIDENTIAL INFORMATION" to any employee of the designating party (except as to the Bank, *see* paragraph "9").

7. **Attendance at Depositions, Designation at Depositions.** At the request of any party, attendance at depositions may be restricted to Qualified Persons and the attorneys for the deponent and deponent's spouses during the disclosure of "CONFIDENTIAL INFORMATION." Testimony taken at a deposition, hearing or trial may be designated as Confidential by making a statement to that effect on the record at the deposition or other proceeding. Arrangements shall be made with the court reporter taking and transcribing such proceeding to separately bind such portions of the transcript containing information designated as Confidential, and to label such portions appropriately.

8. **Deposition Exhibits.** "CONFIDENTIAL INFORMATION" shall not lose its "CONFIDENTIAL INFORMATION" character because it is designated as an exhibit to a

deposition, regardless of whether the deposition or deposition transcript itself is later designated in whole or in part, as "CONFIDENTIAL INFORMATION."

9. **Filing and Use of "CONFIDENTIAL INFORMATION."** Any document disclosing information subject to this protective order to be filed with the Court, which comprise(s) or contain(s) copies, extracts, excerpts, or summarization of "CONFIDENTIAL INFORMATION", whether in the form of interrogatory answers, document production, depositions or deposition notices, or transcripts, pleadings, motions, affidavits, briefs or other documents purporting to reproduce or paraphrase such information, shall be filed in a sealed envelope or other appropriately sealed containers appropriately marked as CONFIDENTIAL and SUBJECT TO PROTECTIVE ORDER. The Clerk of this Court is directed to maintain such documents under seal, to be made available only to the Court, counsel, and the jury in these proceedings (or to the attorneys for the parties in connection with or use by Qualified Persons hereunder). Material designated as "CONFIDENTIAL INFORMATION" under this Order, the information contained therein, and any summaries, copies, abstracts, or other documents derived in whole or in part from material designated as "CONFIDENTIAL INFORMATION" shall be used only in connection with this proceeding. As previously stated, all actions taken by the Bank, in its capacity as Independent Administrator, or in any other capacity, and by the Bank's counsel, with respect to any "CONFIDENTIAL INFORMATION", shall be deemed as actions taken in connection with this proceeding for purposes of this Order.

10. **Preservation of Certain Rights.** Neither the terms of this Order nor any action taken pursuant to this Order shall prejudice the right of any party to urge or contest the relevancy, admissibility or discoverability of any documents, information or things subject to this Order. Nothing in this Order shall be construed either as a finding or admission that any material

constitutes or contains "CONFIDENTIAL INFORMATION." A party shall not be obligated to challenge the propriety of a designation as "CONFIDENTIAL" at the time made, and a failure to do so shall not preclude a subsequent challenge thereto. Nothing herein shall prevent disclosure between the parties to this Order if each party designating the information as "CONFIDENTIAL" consents to such disclosure or, if the Court, after notice to all affected parties, orders such disclosure. Nor shall anything herein prevent any counsel of record from utilizing "CONFIDENTIAL INFORMATION" in the examination or cross-examination of any person who is indicated on the document or by other means as being an author, source or recipient of the "CONFIDENTIAL" information, irrespective of which party produced such information. Nothing in this Order shall prevent or prejudice the right of any party to oppose production of any information or documents or object to its admissibility into evidence. Nor shall any provision in this Order prevent or limit the Court from ordering or permitting the disclosure of the contents of such documents or things which have been marked "CONFIDENTIAL." Nothing in this Order shall prevent any attorney or expert [as identified in paragraph 5(c) or 5(d) above] from advising their client in connection with this action and, in the course thereof, referring to or relying upon his or her examination of confidential material; provided, however, that in providing such advice, such attorney or expert shall not disclose the content of any confidential material to any person who is not entitled to receive it under the terms of this Order.

11. Inspection of Documents. Inspection of documents produced in response to a document request and prior to the designation of specific documents for copying shall be conducted on behalf of the requesting party only by Qualified Persons who shall treat any information in these documents as "CONFIDENTIAL INFORMATION" until the producing

party has had its opportunity to make its designation of "CONFIDENTIAL INFORMATION" in accordance with the terms of this Order.

12. **Subpoenas.** If "CONFIDENTIAL INFORMATION" in possession of a party to this action is subpoenaed by any court, administrative agency, legislative body or any other person not a party to this action, the party to whom the subpoena is directed shall (a) notify in writing counsel for the designating party within three (3) business days and (b) assert this Order as a defense of such demand. The responsibility for attempting to prevent this disclosure or production of such "CONFIDENTIAL INFORMATION" shall otherwise rest exclusively with the party who so designated the information; provided, however, that if the designating party objects to disclosure, the subpoenaed party shall not disclose the "CONFIDENTIAL INFORMATION" without the written consent of the designating party or the order of the court having jurisdiction of the subpoena.

13. **Challenging Designations.** If after being furnished any information, documents or things designated as "CONFIDENTIAL INFORMATION" a party wishes to challenge the claim of confidentiality, the objecting party shall serve written notice thereof to the designating party, identifying with specificity the information, documents or things that the objecting party contends ought not to be designated as confidential. The designating party shall have fifteen (15) days within which to serve a written response, failing which the designating party shall be deemed to have waived its designation and the specified information shall lose its "CONFIDENTIAL INFORMATION" character. If counsel for the challenging and designating parties, after conferring in person, are unable to resolve the dispute by agreement, the designating party shall have twenty (20) days from the date of the conference to file a motion for protective order, failing which the designating party shall be deemed to have waived its

designation and the specified information shall lose its "CONFIDENTIAL INFORMATION" character. If a motion for protective order is filed, the information, documents or things in dispute shall remain "CONFIDENTIAL INFORMATION" until the Court has ruled on the motion for protective order. *The burden shall be upon the designating party to establish the confidentiality of the specified document or information. These provisions do not shift the legal burden of proof to the party challenging a designation of confidentiality.*

14. **Modifications of this Order.** The parties may, by stipulation or written agreement (even if not filed with the Court), provide for exceptions to this Order and any party may seek an order of this Court, modifying this Order.

15. **Ongoing Effect of this Order.** This Order shall remain in effect after the conclusion of this proceeding. Within ninety (90) days after the final conclusion of this proceeding (including any appeal from any judgment), and subject to further Order of this Court or written stipulation of the parties, each party, other than the Bank and its counsel, shall return to the designating party, if the designating party produced the CONFIDENTIAL INFORMATION, all documents, exhibits, deposition transcripts and copies thereof containing material designated herein as "CONFIDENTIAL INFORMATION." This includes all notes, memoranda, summaries, or other documents in the possession, custody or control of any party and any entity or other person who had access to such information (but does not include pleadings, attorney notes, memoranda, summaries or other attorney work product) incorporating the "CONFIDENTIAL INFORMATION" which that party received pursuant to this Order.

SIGNED on this the _____ day of August, 2011.

JUDGE PRESIDING