NO. PR-11-3238-1

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

RESPONSIVE REPORT OF EXPERT, THOMAS CANTRILL ATTORNEY FEES INCURRED IN ESTATE ADMINISTRATION

AUGUST 19, 2016

QUALIFICATIONS AND SCOPE OF RESPONSE

My name is Thomas Cantrill. On July 13, 2016 I released my report (my "Original Report") as to the reasonableness of attorney's fees charged by Hunton & Williams, LLP ("H&W") in the Heirship Proceeding, the Temporary Administration, and the general estate administration of the Estate of Max D. Hopper (the "Estate") by JPMorgan Chase Bank, N.A. ("JPMORGAN" or, in its capacity as independent administrator, the "Administrator") from inception in April of 2010 to July of 2016. I incorporate the terms of my Original Report for purposes of stating my qualifications, the scope of my engagement as an expert in this proceeding, the extent and nature of the services rendered by H&W and expenses charged to the Administrator, and the

reasonableness of those charges and expenses. Terms defined in my Original Report shall have the same meaning in this supplement to my Original Report (my "Supplemental Report").

The purpose of this Supplement Report is to respond to the expert reports of Anthony L Vitullo (July 13, 2016) [the "Vitullo Report"], and by Jerry Frank Jones (July 13, 2016) [the "Jones Report"] to the extent those reports challenge the reasonableness of H&W fees charged and expenses incurred in the general administration of the Estate.

RESPONSE TO VITULLO REPORT

Mr. Vitullo concludes that the fees charged to the Estate are excessive, unnecessary, unreasonable and outside the scope of Chase's Fee Agreement, but he fails to specify why he reaches such conclusions. My Original Report summarizes the services rendered, and explains why those services were required, which in large part is attributable to actions taken and demands made by counsel for Mrs. Hopper and the Beneficiaries, which did require the use of Estate counsel to respond to those actions and demands.

Mr. Vitullo also notes that the Administrator's role was "non-adversarial", but he fails to note the adversarial position taken against the Administrator and each other by counsel for Mrs. Hopper and the Beneficiaries with respect to the Robledo property or the number of challenges that were lodged by Mrs. Hopper and the Beneficiaries to inventory and carryover basis filings, or the efforts that were made (including a demand made on Ms. Williamson under then Section 75 of the Texas Probate Code) to secure information necessary to complete those filings.

Mr. Vitullo fails to provide any basis for his opinion that rates charged were "extremely high" for the services provided.

Mr. Vitullo states that it "appears" that there were multiple attorneys charging for the same work, resulting in unnecessary overbilling, but he fails to identify a single instance in which he finds any evidence of such use of multiple attorneys charging for the same work, making it impossible to respond to what he thinks might appear in billing statements.

Mr. Vitullo also asserts that counsel for the Administrator were asked to perform services the Administrator should have performed without resort to outside counsel, which is an allegation made by Mr. Jones as well, and which will be addressed in response to the Mr. Jones' report.

Mr. Vitullo's one page report is largely conclusory, and fails to specifically address the *Andersen* factors. As such, it is my opinion that the Vitullo Report should not be given any consideration as an expert opinion.

RESPONSE TO THE JONES REPORT

My response to the Jones Report will not address fees charged or expenses incurred in the litigation seeking the removal of the Administrator (amended in 2016 to drop the action seeking removal). Nor will it address duties owed to the Beneficiaries, or the award of Administrator's commissions and the responsibility for the payment of those commissions, all of which will be addressed by other experts on behalf of the Administrator.

It is correct that JPMorgan, Mrs. Hopper and the Beneficiaries did enter into fee letter agreements between April 15 and April 27 of 2010 (collectively, the "Fee Agreement"). Mr. Jones fails to note that at that time, and throughout substantially all of JPMorgan's involvement

in the administration, all of the parties to the Fee Agreement were independently represented by counsel of their own choosing, each of whom was provided with a copy of the Fee Agreement before it was signed.

Pursuant to the Fee Agreement, all H&W charges for legal service that relate to the Heirship, the Temporary Administration and the independent administration, and all related expenses, have been charged to the Estate, and payments to date for those services and expenses have been made by the Estate. However, it is not correct to conclude that no effort has been made to recover any portion of those fees and expenses from Mrs. Hopper. Proposed allocations of a portion of those fees and expenses have been made by the Administrator between the Estate and Mrs. Hopper, copies of which have been provided to counsel for Mrs. Hopper and the Beneficiaries, and active pleadings reflect an effort has been made, and continues to be made, to recover fees and expenses that can be properly allocated to Mrs. Hopper.

Mr. Jones asserts the fees charged were unreasonably high, but provides no basis for his conclusion, other than to reference the Dallas County Probate Court approved rates. This is not a dependent administration where courts publish the rates they will approve. The surveys attached to the Original Report, and my own knowledge of fees charged in Dallas, Texas for similar services, evidence that Mr. Jones' opinion is not supported by credible factual comparisons of fees charged for similar services.

Mr. Jones reaches a number of conclusions in his report that are not supported by any authority other than his own viewpoint, and that are contrary to my own understanding of typical practice procedures for estate representations in Dallas, Texas. Among those conclusions are: (i) the inference there may be a duty to canvass the community of estate administration attorneys

to determine the lowest competitive bid for services, and presumably to retain the attorney with the lowest competitive bid; (ii) a conclusion that block billing (in this administration that means failure to divide time within a single day among tasks undertaken for that day in general administration billing) is inappropriate; and (iii) a conclusion that there was a failure to segregate fees for estate administration services from litigation service charges.. To the extent Mr. Jones holds those opinions, I disagree with his conclusion and am aware of no substantive support for his conclusions.

Mr. Jones concludes that the Administrator used its attorneys to discharge actions that should have been undertaken by the Administrator. He fails to evaluate the nature and extent of the time actually devoted to estate administrative tasks by representatives of the Administrator, or to attempt to identify what tasks he alleges the Administrator improperly delegated to counsel to resolve, or why assistance of counsel was not proper in carrying out particular tasks. As such, Mr. Jones' opinion on the delegation issue is conclusory and lacking in a proper factual foundation.

Mr. Jones concludes that at least some portion of the H&W charges for services and expenses are "outside the fee schedule agreement", although he acknowledges that the Administrator did disclose the Administrator would utilize counsel to oversee legal matters. He fails to identify any specific instance of the use of H&W attorneys that was not related to overseeing legal matters, or representing the estate in court. By failing to identify any matters that he believes were outside the fee schedule agreement Mr. Jones opinion in this regard is not properly substantiated.

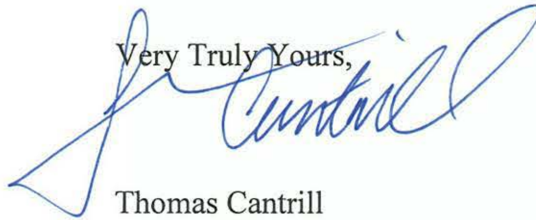
Mr. Jones asserts the homestead was not subject to administration, and implies that unnecessary legal service time was invested on the homestead issue. While it is apparent that the disputes about Robledo significantly increased expenses in the Estate administration, it is not correct to assert the Administrator made no efforts to avoid those costs. It is true that the homestead is not subject to administration, but the property upon which the homestead right is imposed is not the homestead, and clearly there are duties imposed on the Administrator to inventory the property, and, in appropriate instances, to release and convey the property to show that the land upon which the homestead is imposed is no longer under the control of the Administrator. And there were conflicting positions asserted by Mrs. Hopper and the Beneficiaries concerning what post mortem expenses attributable to the Robledo property should be paid as an expense of administration. The Robledo issues were the subject of three separate opinions by Judge Miller, and of course the Court of Appeals judgment. They involved multiple conflicting assertions by Mrs. Hopper and by the Children concerning the duties of the Administrator with respect to the Robledo property. Time invested in this dispute by Mrs. Hopper and by the Beneficiaries undoubtedly was not well spent, but the Administrator found itself in a dispute between the parties from which it could not be extricated, and to conclude that a great deal of H&W legal service time required in this matter was unnecessary is not supported by the fact of this representation.

Finally, Mr. Jones suggests that the Administrator should have converted the administration to a dependent administration. Presumably Mr. Jones is of the opinion that doing so would have saved legal fees and costs. The record shows that the issues relating to Robledo involved many hearings before Judge Miller, and three orders on motions filed. Those disputes

would not have been avoided by converting this administration to a dependent administration, and in fact could have led to increased cost to the extent additional court approval of action by the Administrator became necessary in the dependent administration.

I reserve the right to modify or supplement this Supplemental Report as necessary if given further information that would require modification or supplementation.

Very Truly Yours,



Thomas Cantrill