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Tuesday, Apr 17, 2012

Posted on Mon, Apr. 16, 2012

Harrison County faces second lawsuit over Pringle thefts

By ANITA LEE

GULFPORT -- A second lawsuit has been filed in Harrison County over funds embezzled from a vulnerable adult's account by court-appointed administrator and lawyer Woodrow W. Pringle III, who committed suicide after he was caught stealing.

Biloxi attorneys Danielle Brewer and Ian Baker filed the lawsuit in Circuit Court on behalf of the Clotil Beacham Estate. The estate was left to an heir who has been hospitalized for mental problems, the complaint says.

The complaint alleges that Pringle was able to embezzle \$240,000 as court-appointed administrator of the estate, leaving an account balance of \$728.80 in December 2008.

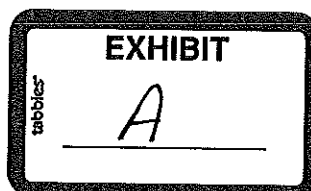
The lawsuit accuses the county of negligence and of violating the estate ward's constitutional right to due process before his property was taken.

The lawsuit seeks unspecified damages for the estate.

Chancery Clerk John McAdams, the lawsuit says, failed to follow a state law that required him to report administrators such as Pringle who failed to file annual accountings of estates, guardianships and conservatorships they oversaw. Pringle provided no accounting on the Beacham estate for years. Pringle also failed to secure any bonds to oversee the accounts, as required by state law.

The county has said a bond would not have covered losses vulnerable adults and children suffered because of Pringle's theft. A forensic accounting concluded he stole almost \$2.4 million from numerous accounts he oversaw as the Chancery Court-appointed county administrator. The county also maintains any annual accountings filed by Pringle would have been falsified.

The scope of Pringle's theft became apparent only after he killed himself in December 2010, after the Department of Veteran Affairs discovered something was amiss with a guardianship Pringle managed.





Text Size:

Monday, Apr 16, 2012

Posted on Sat, Apr. 14, 2012

Courts look to law to prevent another Pringle incident

By ANITA LEE

Chancery Courts in Harrison and Hinds County are following required safeguards to protect the assets of children and vulnerable adults because, they confirm, attorneys in their jurisdictions either stole or improperly spent millions of dollars entrusted to them.

In Gulfport, attorney Woodrow W. "Woody" Pringle III stole at least \$2.4 million from accounts he managed for children and vulnerable adults, a forensic accounting shows. He spent some of the cash on a house in Windemere, Fla, where he lived with his third wife, and on travel expenses to and from Florida to Gulfport, according to the records.

Pringle committed suicide in December 2010 in a hotel room at the Orlando Ritz-Carlton, overdosing on alcohol and pain killers, after Harrison County Chancery Clerk John McAdams discovered the attorney had falsified bank records for a veteran's guardianship account. A forensic accounting has since revealed the extent of his thievery from numerous accounts he oversaw.

In Jackson, attorney William J. Brown embezzled or misappropriated almost \$1.7 million from a guardianship, a Chancery Court judge determined in March.

The two cases have one thing in common: Neither attorney was filing the annual accountings that state law requires for guardianships, conservatorships and estate accounts overseen by chancery court, court officials concede. Chancery clerks are responsible under state law for turning over a list each year of guardians and conservators who are delinquent in filing the accountings required by state law. Once judges have the list, they are supposed to demand the accountings and hold in contempt any account administrators who fail to produce them.

In the Pringle and Brown cases, attorneys also have noted, banks have in some cases failed to follow court orders that restrict spending of funds from the court-supervised accounts.

Lincoln County Chancery Clerk Tillmon Bishop, president of the group's state association, said many chancery clerks are probably unaware the law directs them to file the delinquent lists. A chancery clerk's duties under state law are legion and some of them date to the days of horses and buggies, Chancery Clerk John McAdams said. McAdams and another clerk in the same chancery district, Tim Kellar of Hancock County, are now filing the delinquent lists because of Pringle's embezzlement.

But the third clerk in the district, Gerald Bond, said he is not filing the list. Like most chancery clerks, Bond personally oversees a certain number of guardianships, conservatorships and estates. He accounts for that money. But he does not believe he is responsible for oversight on any accounts managed by attorneys or other individuals.

EXHIBIT

"It would be a huge burden to do that every time," Bond said, "to go pull all those files. Of course, something has to be done; something needs to be done. I don't object to it."

Bishop said the need for delinquent accountings will be covered at an upcoming meeting of the Chancery Clerk's Association. McAdams sent to the other 81 chancery clerks in the state a detailed story the Sun Herald ran April 1 about Pringle's embezzlement.

"Sometimes," Bishop said, "it takes a little bit of a jolt in any area of life to make sure things are getting done."

Minor's inheritance pilfered

In Hinds County, Chancery Clerk Eddie Jean Carr said she was unaware the law required her to file a delinquent accounting list. She said the Hinds County Chancery Court staff is taking care of it.

Court administration confirmed that the case of embezzlement and misappropriation of guardianship funds by attorney Brown has spurred them to more thoroughly search out, notify and hold accountable delinquent filers.

"There's a backlog of cases where these accountings haven't been done in a timely fashion," said Cynthia Hill, senior court administrator in Hinds County Chancery Court. "That's not a responsibility of the court administrator, but we've taken on this responsibility in order to get the matters heard and resolved expeditiously."

If annual accountings had been required in Hinds County, attorney Brent Hazzard said, a lot of heartache might have been avoided.

The daughter of civil rights leader Aaron Henry died with an estate that eventually accumulated about \$8 million from her father's ownership interest in WLBT-TV in Jackson. After taxes, one of her two grandsons inherited more than \$3.4 million. The family trusted attorney Michael J. Brown with the guardianship in 2000, according to a report prepared by court-appointed special master Paul E. Rogers, a Jackson attorney and certified public accountant.

Under a Chancery Court order, Brown was supposed to put the money into a guardianship account and secure bank certification that none of it would be released without further order of the court.

Brown should have included the bank certification, showing the amount deposited, with an annual accounting of the guardianship, Hazzard said. Brown filed no accounting. No chancery judge demanded one for years. In 2006, when the grandson reached 21, the guardianship was closed. Brown at that time filed a perfunctory and inadequate accounting that covered the previous four years, attorney Rogers said.

Brown always had excuses for not turning over the funds to the young man, Hazzard said. Hazzard said the young man and his father complained to the Mississippi Bar Association in 2007 and also asked various attorneys for help. Hazzard took on the case in 2010.

Brown and the guardianship court file were nowhere to be found. When Brown finally showed up for court earlier this year, he claimed leaking pipes in his office had destroyed all files related to the guardianship, court records say. During his second court appearance, Brown produced

cancelled checks from the account that he claimed he had just found in his attic.

Brown admitted in court that he had loaned \$550,000 from the guardianship account to a local cemetery developer. Banks records revealed that Brown spent \$281,000 on high-end automobiles. With actual court approval in 2001, Brown collected a \$398,000 fee that a new judge in the case in 2012 called "outrageous and unreasonable."

It also turns out Brown deposited only \$900,000 of the young man's money in a guardianship account, which he then pilfered, according to court records and the special master's report. Brown put \$1.3 million directly into his office trust account and another \$1.2 million into an unsupervised bank account, the special master's report shows.

An annual accounting should have shown in 2007 that Brown had failed to deposit most of the money into the court-supervised guardianship account. Rogers said the young man is left with about \$300,000 cash and rental properties a family member, who relied on Brown's advice, improperly purchased.

The state Bar Association filed a complaint Tuesday with the Supreme Court, seeking Brown's disbarment. Brown is free on bond, pending appeal of the contempt charges. He could not be reached to comment.

Chancery Court Judge J. Dwayne Thomas, who has jailed Brown for contempt of court, sent a transcript of court proceedings in the case to the district attorneys' offices in Hinds County, and to the Rankin and Madison county district attorney, saying an investigation by one of the two offices should be conducted. The office for Rankin and Madison counties has taken on the task because Brown's home and office are in Rankin County, said Assistant District Attorney Bryan P. Buckley.

"The Rankin-Madison District Attorney's Office is absolutely investigating Mr. Brown," Buckley said. "It appears that this poor kid just got robbed by the very people who were supposed to be watching out for his best interests."

Safeguards are crucial

"Hard as we try," said Sandy Steckler, Harrison County's senior Chancery Court judge, "if a thief's out there, we can't stop every thief from being a thief."

In Harrison County, he said, Chancery Clerk McAdams has turned over to the court a list of account administrators delinquent in filing their accountings. Letters are being sent out to let them know the accountings must be filed or they will be summoned to court, where they will either produce the accountings, show they are not required or face contempt charges.

The list covers 2,200 cases. But accountings will not be due in all instances. In some cases, the owner of assets waives beforehand any accounting of an estate. In others, no money is involved or the accounts are dormant. In some cases, court orders dispense with accountings for various reasons.

Also, state law waives annual accountings when a court order allows the money to be deposited with a federally insured institution and stipulates

that no money can be withdrawn without a subsequent court order. A bank officer must sign a receipt acknowledging no withdrawals can be made without a specific court order, said Ridgeland attorney Robert Williford. Williford has conducted seminars for chancery court judges and chancery clerks on managing estates, guardianships and conservatorships. When done properly, he said, annual accountings are an important safeguard for children and vulnerable adults whose assets are entrusted to the court system.

"It's tough to remember and get all these things down all the time, perfectly, but you need some of the basics," he said.

The basics include a beginning balance, itemized expenses and receipts, and an ending balance, with support documentation attached. Mississippi's Chancery Court Rules also require attachment of a sworn and certified statement from a bank officer that the funds are on deposit.

Williford said attached bank statements would be one way to minimize theft. He realizes, however, that judges have only so much time to pour over records. The four chancery judges for Harrison, Hancock and Stone counties average 6,000 new cases a year -- in Harrison County alone.

"Some of these accountings can be voluminous," Williford said. "When the attorney comes in there and presents the accountings, there may be 15 other people waiting to see the judge. They don't, probably, have the time and I'm not sure how to resolve some of those."

But, the Mississippi State Bar Association has concluded, safeguards must be followed and possibly beefed up.

"If you filed your accounting and you attached the bank statements and then, if you had the certified statement from the bank officer that the balance is correct," Williford said, "then you've got some cross-checking and some verification. All that through some skilled person could be twisted, distorted and certified. I'm sure somebody could skirt even that.

But if all those rules are followed, I think you would then begin to minimize the problem."

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Wednesday, Apr. 04, 2012 12 Comments

The trust that Pringle stole must be restored

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There is a maddening irony in the fact that those who lost money entrusted to an "officer of the court" must now turn to the courts to try to recover some portion of their devastated estates.

As Anita Lee reported in the Sun Herald on Sunday, Gulfport attorney Woodrow W. Pringle III may have stolen almost \$2.4 million from bank accounts he managed for children and adults unable to handle their own affairs.

Summoned to Gulfport, where he was born and raised and still practiced law, the 56-year-old Pringle left his home in Windemere, Fla., and checked into a luxury hotel in Orlando in December 2010. There, according to a medical examiner's ruling, he committed suicide.

On the morning of his death, Pringle emailed Harrison County Chancery Clerk John McAdams, saying: "I want to apologize for abusing your trust. I abused the trust of my family, friends, judges and so many others. I was able to do this for so long because people trusted me and believed in me. I am truly sorry and want you and everyone else to know that no one ever knew this was happening."

Since then, one lawsuit has been filed against Harrison County and two against McAdams over Pringle's misdeeds. McAdams also is suing Pringle's widow on behalf of seven victims whose money allegedly went to buy the Pringles' house.

The purpose of these lawsuits is to recover money, not to uncover how Pringle was able to dupe so many for so long.

What is certain is that chancery clerks, including McAdams, have for years failed to follow a state law that requires them to compose a list each year of guardians or conservators who are delinquent in filing accountings of the money they manage for children and vulnerable adults. Chancery Court judges then have the authority to demand those accountings from delinquent filers, the law says.

Pringle managed such accounts for McAdams and the chancery judges of Harrison County. Hours before his death, Pringle acknowledged betraying the trust those officials placed in him. But more than a year later, it is still unclear why those officials did not do more -- or at the very least, what the law requires -- to verify that trust.

The lawyer for McAdams, Donald Dornan of Biloxi, said: "We were all shocked ... when Woody Pringle had embezzled funds from all these vulnerable adults and minors over a period of years. Now that we've investigated it, we know that he was very meticulous in presenting falsified accountings to the chancery judges and secretly depositing guardianship and conservatorship funds into his own trust account. Nobody knew what he was doing."

Senior Chancery Judge Margaret Alfonso, who has since moved to family court, appointed Pringle county administrator in 2003, said Sandy Steckler, the current senior chancery judge. All four chancery judges, including Steckler, signed the July 2003 order that put Pringle in the position of trust as administrator of guardianships, conservatorships or

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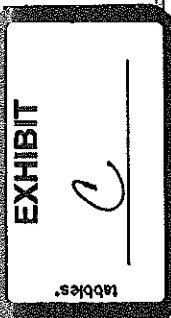
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estates. He also served as attorney for McAdams, who needed a lawyer's guidance on cases he was assigned.


Pringle started stealing as early as 2004, according to the forensic accounting undertaken after his death. He kept getting by with it with "some song and dance ... something he made up," as one attorney put it.

"He seemed to know what he was doing," McAdams said of Pringle.

But why didn't anyone else know?

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Tuesday, Apr 3, 2012

Posted on Sat, Mar. 31, 2012

STOLEN TRUST

By ANITA LEE

Attorney Woodrow W. Pringle III checked into the Ritz-Carlton hotel in Orlando, Fla., with a bottle of tequila, a bottle of gin and painkillers. The 56-year-old attorney had been urgently summoned to a meeting in Gulfport, where he was born and raised and still practiced law. He left his home in Windermere, Fla., for the airport on a Monday morning, Dec. 13, 2010, his wife, Rachel, said. But he could not bear to face what awaited him. Instead, he checked into the luxury hotel, where he had previously stayed on business trips.

His secretary called Pringle's wife to tell her he had not arrived in Gulfport. Rachel Pringle talked to him Tuesday at 9:30 a.m., according to a law enforcement report.

Gulfport authorities reported him missing. Investigators in Orlando traced his cellphone signal to John Young Parkway, a busy thoroughfare surrounded by tourist attractions. Investigators, in talking to his wife, realized Pringle might be at the Ritz-Carlton on the parkway. A hotel clerk verified Pringle had checked in the day before. Hotel security accompanied officers to his room.

Pringle lay face down on the bed, fully clothed, his hands to his face. His cellphone lay at his right elbow, an open Bible to his left. His body was cold, the tequila bottle empty, a quarter of the gin gone. He was pronounced dead, a medical examiner's report said, at 5:30 p.m. Dec. 14. The medical examiner's office later ruled his death a suicide caused by toxic levels of oxycodone and alcohol.

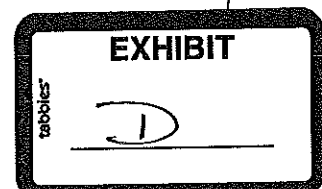
The official death reports mentioned notes found on a bench beneath the bed. They were described as "multiple instruction sheets to family members relating care of items, including notes that said he was the only one who knew about 'it.'"

Soon enough, his clients and Harrison County officials who had placed him in a position of trust would begin to unravel the full extent of "it."

Pringle knew he had been caught embezzling money by Harrison County Chancery Clerk John McAdams. At 8:49 a.m. the morning of his death, Pringle sent McAdams an email. It said: "I want to apologize for abusing your trust. I abused the trust of my family, friends, judges and so many others. I was able to do this for so long because people trusted me and believed in me. I am truly sorry and want you and everyone else to know that no one ever knew this was happening."

Court officials have learned Pringle might have stolen almost \$2.4 million from bank accounts he managed for children and adults unable to handle their own affairs, an accountant's investigation reveals. Harrison County faces one lawsuit, and McAdams faces at least two, over Pringle's misdeeds, attorneys involved in the cases say. McAdams also is suing Pringle's widow on behalf of seven victims whose money allegedly went to buy the Pringles' house. The chancery clerk hopes to secure the house and sell it to help compensate Pringle's victims. Attorneys for McAdams and Rachel Pringle are in settlement negotiations, Rachel Pringle's attorney said.

Chancery clerks, including McAdams, had for years failed to follow a state law that requires them to compose a list each year of guardians or conservators who are delinquent in filing accountings of the money they manage for children and vulnerable adults. Chancery Court judges then



have the authority to demand those accountings from delinquent filers, the law says.

Pringle managed such accounts as attorney for McAdams, or as the court-appointed county administrator. Chancery judges have and do order accountings in individual cases, when warranted.

The lawyer for McAdams, Donald Dorman of Biloxi, said timely accountings would not have mattered in Pringle's case, although McAdams and other county clerks have started turning over delinquent account lists since Pringle's suicide.

When pressed occasionally for accountings, attorneys familiar with the situation said, Pringle falsified them. Evidence that he created his own account records was found in his office trash can after his suicide, which led Gulfport attorney Virgil Gillespie to believe Pringle was desperately trying to manufacture bank records because he knew he was about to be caught.

Dorman said: "We were all shocked -- members of the bar were shocked -- when Woody Pringle had embezzled funds from all these vulnerable adults and minors over a period of years. Now that we've investigated it, we know that he was very meticulous in presenting falsified accountings to the chancery judges and secretly depositing guardianship and conservatorship funds into his own trust account. Nobody knew what he was doing.

"We, meaning John McAdams and our office, have worked over the last year to trace these ill-gotten funds in the cases in which John McAdams was a guardian, which is, I believe, there are seven cases in which he was a guardian. There are many, many, many cases overall involving Woody Pringle. We believe that we will ultimately be successful in recovering funds. Most or all of the funds, unfortunately, were spent to support Woody Pringle's lifestyle prior to his death."

'We finished'

After Pringle's death, Julie Smith, 36, got a call from her attorney.

"I have some bad news about Woody," Smith recalls the attorney saying. "He committed suicide. And we have reason to believe he's been stealing money."

Smith, who lives with her mother and five children in North Biloxi, fell to the floor. She wept for hours before she was able to collect herself.

"His life is gone," she said, referring to Pringle. "His life is lost because he didn't see any other way out. I feel so bad that he felt like the only way out was to kill himself. This could have been avoided if everybody was doing what they were supposed to do. I just feel like all of this could have been stopped. This shouldn't have happened, not even to Woody."

Smith knew Woody Pringle only as the conservator of a bank account held in trust for her mother, Soon San Pak.

Pak grew up in Korea. Her family enjoyed prominence and a comfortable life in their village for the first few years of Pak's life. But her father drank and gambled away their money. In third grade, Pak said, she was pulled from school to work in the rice fields so she could help support the family. Pak, who had six siblings, was the oldest girl.

She still remembers, when she was 16, her mother coming to her, seemingly out of the blue.

"One day, my mama said, come inside," Pak said. "You and me, we finished. You gonna go your way. Don't talk about it. It's for your own good. If you go over there, you can help your brothers and sisters. We don't have no money, no food, nothing. I can't afford to keep you here."

The Pak family received a lump sum in exchange for sending Soon Pak to work for a Korean family in America.

"Honestly," Smith said, "her family sold her as an indentured servant." Soon Pak worked seven days a week, 10 to 12 hours a day, at the family's mini-marts in Colorado. She fulfilled a three-year contract, then told them she was running away. They objected, saying she owed them money for this and that. Pak said she left anyway. She had family in Biloxi. They took her in.

She married and, accustomed to hard work, made a life for herself. Smith does not remember her mother being at home much. When one child-care center closed for the day, Pak picked up her daughters and took them to another. Sometimes the girls cried. Their mother cried, too. But one day they would understand, she said. One day.

Pringle steps in

"Saving money was such a big sacrifice in her life," Smith said. "That's all she thought about every day." Pak became a successful businesswoman, at one time or another operating a laundromat, restaurants, a seafood market, bait-and-tackle shop and, most notably, the Tokyo Bathhouse, a massage parlor on Veterans Avenue in Biloxi.

She and her husband eventually divorced, but she kept the businesses. He moved to Texas. In the late 1980s, according to legal records, she met Yong Tok Pak. They married in 1992 in Korea and, officially, in the United States in 1999.

Soon San Pak fell ill in 2001. A tumor was discovered on her pituitary gland. Several surgeries later, she had lost her short-term memory. She was no longer able to work. Her husband took care of her for a number of years, but their marriage had disintegrated by May 2005, when they separated. An unaudited financial statement in 2004 listed their net worth at \$1.1 million.

Pak's daughters filed to become her conservators, which would give them authority to care for her and manage her money. Chancery Judge Jim Persons appointed Pak's daughters as co-conservators of her estate in June 2005. The young women filed for divorce on their mother's behalf the same month. The acrimonious divorce still has not been finalized.

An inventory of assets the sisters filed in early 2006 showed Soon Pak had more than \$305,000 in a conservatorship account, plus other cash and valuables. Persons ordered the sisters to immediately secure a \$325,000 bond that would cover any financial losses their mother might suffer on her daughters' watch. Pak's husband filed an objection to having the young women as co-conservators of his wife's affairs.

Because the sisters were unable to secure a bond, they were forced to resign as co-conservators and agree in July 2006 that attorney Woody Pringle would serve as her conservator. Pringle, a trusted officer of the court, was not required to secure a bond, court records show, beyond the one he was supposed to have put in place when he was appointed county administrator in 2003. It turns out he had never secured that bond, either. Also, an attorney for Smith would later learn, he had no malpractice insurance.

On the day her lawyer called to tell her Pringle had killed himself, Smith had good reason to cry. She would soon learn the balance in her mother's trust account was \$86.46.

'Pennies on the dollar'

Pak turned out to be only one of Pringle's victims. The forensic accounting shows Pringle wrote checks from the accounts he managed to his own office operating and trust accounts, for cash and to American Express. He also cashed checks made out to him that McAdams signed, with Pringle assuring the chancery clerk they were going for legitimate expenses.

"Clearly, some of the checks written to Mr. Pringle are for appropriate expenses related to the estate, guardianship or conservatorship," the accountant concluded regarding the guardianships and other accounts she examined, "but it is also clear that the majority of the checks written to Mr. Pringle were for his personal expenses."

Gulfport attorney Gillespie, who represents the administrator of Pringle's estate and is charged with recovering assets for victims, requested the accounting.

"The amount of money we've been able to recover thus far is minor in comparison to what he stole," he said. "I've recovered very little, to tell you the truth. When you take some of these bigger accounts (Pringle managed) and you spread it all around, it's going to be pennies on the dollar. Very few pennies on the dollar."

A quiet, trustworthy man

Almost anyone who practiced law in Harrison County knew Woody Pringle, though they came to realize after his suicide they really did not know him at all.

He grew up in Gulfport in a middle-class subdivision of low-slung ranch houses known as Woodglen. His mother stayed home with her three children, while his father owned and operated a full-service gas station, Fernwood Shell, at DeBuys and Pass roads. In the summer, the Pringle boys pumped gas, checked oil, drove a wrecker and did whatever else needed doing, said Danny Pringle, who was five years younger than his brother.

As a teenager, Danny Pringle said, his brother went to work on a road construction crew for a paving company. Baseball was his greatest joy. He also loved to play golf, a game the Pringle brothers would continue to enjoy together as adults.

Woody Pringle, who graduated from the University of Mississippi School of Law, worked for 13 years as a prosecutor in Harrison County Family Court, where he was remembered as organized and dedicated.

Pringle and his first wife had two sons, but their marriage did not last. He married a second wife, Cynthia Pringle, in 1989 and raised her children as his own. When Pringle was not working, friends say, he was usually somewhere on a baseball field coaching children.

Acquaintances describe him as a quiet, chubby fellow who served as a strong advocate for his clients. After leaving his family court position, Pringle spent a good deal of time practicing family law in Chancery Court. "I had a lot of dealings with Woody," attorney Gillespie said. They had, in fact, convened in Pringle's office only a couple of months before he died to take pretrial testimony in a case.

"I had no idea that he was anything but what everybody thought he was, a good lawyer, a good lawyer," Gillespie said. "Woody was a good little lawyer and had the reputation around town of being honest and doing his work."

Senior Chancery Judge Margaret Alfonso, who has since moved to family court, appointed Pringle county administrator in 2003, said Sandy Steckler, the current senior chancery judge. All four chancery judges, including Steckler, signed the July 2003 order that put Pringle in the position of trust. Pak's account was one of many guardianships, conservatorships or estates Pringle managed, as county administrator or as attorney for Chancery Clerk McAdams, who needed a lawyer's guidance on the cases he was assigned.

"Nobody had any reason to believe that Woody was what he was," Steckler said, pointing out Pringle had practiced law for almost 30 years without a

whiff of impropriety. "I certainly didn't voice any objection to Margaret appointing him. I always thought he was kind of a grumpy guy. I certainly wouldn't have appointed him, but I had no objection to him. I found him disagreeable sometimes."

Breaking the ice

The attorney who now represents Julie Smith and her sister Jackie in the quest to recover Soon Pak's money from Harrison County, plus any other damages that might be proven, believes the court's lax supervision convinced Pringle he could get away with theft.

"I think if everyone had followed the law and if Pringle had to have done accountings all along and he had known that the safeguards were in place that the law requires, I don't think this would have happened," said Bay St. Louis attorney Marcie Baria, who is representing the Smiths. "However, he went for many years as the conservator of estates and the executor of estates, and as the county administrator, where no one was requiring him to account for anything. He knew that no one was requiring him to account for anything and he knew that he had no oversight and he took advantage of the situation."

Pringle started stealing money as early as 2004, according to the forensic accounting undertaken after his death.

Gillespie said he represented a client years ago who had embezzled money. The client's rule: "Don't break the ice. He first took \$100 and, when nobody noticed, another \$100, then, maybe, \$400.

It wasn't that way with Pringle, Gillespie said. "He started out big, as far as we can see."

Biloxi attorney Ed Donovan met Pringle years ago, when Donovan agreed to serve as an assistant county prosecuting attorney. Pringle was assigned to work as a county prosecutor's intern. He walked into Donovan's office a couple of days after the appointments and introduced himself.

"I was happy to have some help," Donovan said. "We had a good relationship. I would see him over the years. We even worked a few cases together."

One of those was an estate for a mentally ill man that Pringle, as county administrator, inherited after a relative had plundered it. Donovan was appointed to be the beneficiary's guardian in January 2004. They recovered money the relative had taken, Donovan said, and managed to get an extra \$100,000 for estate land already under contract.

"I felt like I did a good job for the fellow and Woody worked pretty hard, too, to help us," Donovan said. "We sued the lawyer who handled the estate because he did such a sloppy job. We made him disgorge his fee of \$50,000. He gave it back to the court."

Incredibly, evidence indicates, Pringle turned around and stole the money he had helped recover. Donovan has filed a claim against Pringle's estate for \$239,298, the amount Pringle is believed to have taken.

The first check Pringle made out to himself on the account was in June 2004, court records show, for \$19,000.

Sinking into depression

After Hurricane Katrina, Donovan noticed, Pringle seemed to be depressed. Plenty of lawyers, including Donovan, had reason to be down. Many lost their homes and offices. Pringle, Donovan said, fared better than most, with little damage to his office on Pass Road.

"He was telling me, he was just thinking about moving away from the Coast and going to live in West Point, Miss.," Donovan said. "I couldn't imagine wanting to go live in West Point, Miss. But the long and short of it, I thought that was peculiar, but then again, who knows?"

Unbeknownst to Donovan, Pringle continued to write himself checks from the estate meant to support the mentally ill heir. By 2007, he was withdrawing more money in larger amounts, including a check to himself for \$92,000 in June of that year.

By this time, Pringle had met Rachel Morgan, the woman who would become his third wife. The circumstances surrounding their meeting are unclear, but Woody Pringle added Morgan as a beneficiary on his \$800,000 life insurance policy on the same day in April 2007 that his divorce from Cynthia Pringle was finalized.

Morgan lived in the Orlando area, Pringle's acquaintances said. He frequently flew to Florida to see her, returning to work in Gulfport. After his second divorce, he moved into a Pass Christian condominium. His many expenses included alimony to his ex-wife, according to their divorce decree.

Danny Pringle sensed his brother was depressed after the hurricane, when business at his office apparently slowed down. Danny Pringle also assumed his brother was suffering over the divorce.

"Of course, he kept everything to himself," the brother said. "He would never tell you anything, problem-wise, so I had no idea that the business had taken such a hit."

Danny Pringle worked as a police officer in Monroe, La., where his big brother occasionally visited. At some point, probably in 2007, Danny Pringle said he woke up at 4 a.m. to find his big brother sitting on the side of the guest room bed, rubbing his head.

"His exact words were, 'I don't know how I'm going to get out of this'," Danny Pringle said.

Danny Pringle can still see his brother sitting there. He replays the scene, wondering if Woody Pringle might have talked about what was really troubling him if Danny Pringle had responded differently.

Danny Pringle thought his brother was upset over his girlfriend. "Well, I'll get you out of it," Danny Pringle said. "I'll call her right now and say, 'You're done.' And you don't ever have to talk to her again."

Instead, Woody Pringle bought a house in July 2008 in Windemere, next to the subdivision where Tiger Woods lived. The spacious home, set back from the road on a wooded lot, included a screened swimming pool. Pringle paid \$461,745 cash for the house. He and Rachel Morgan married that September.

Danny Pringle served as best man at the wedding.

"It's what he decided, so I was a happy person the whole time I was there," the younger brother said. "I wasn't going to put a damper on anything. If my brother decided on that, then I better just get over my feelings because that was just the way it was going to be. So I was very nice."

Woody Pringle transferred the house into both his and Rachel Pringle's names in October 2008, according to a copy of the deeds. From August to October 2008, Pringle also wrote \$40,000 in checks to Rachel Pringle from his office trust account. Chancery Clerk McAdams claims in a complaint filed against Rachel Pringle that her husband stole the money and she knew it.

Rachel Pringle could not be reached to comment, but her attorney, Brenda G. Long of Gulfport, said, "Nobody has shown me any proof that Rachel had any knowledge of what Woody was doing. There's been a lot of innuendo, but no proof to substantiate it." Rachel Pringle also has submitted a sworn statement to the Chancery Court saying that she knew nothing about her husband's law practice.

Gillespie sent a letter to Rachel Pringle's attorney in February 2011, shortly

after Woody Pringle's death. He said he intended to recover any assets Woody Pringle acquired with embezzled money so victims could be reimbursed. "As I told you by telephone," Gillespie wrote, "we know of approximately \$886,000 in irregularities during the year 2008. Actually, we have now learned the amount is higher.

"During the above-mentioned year, when Mrs. (Rachel) Pringle signed a joint tax return, his law practice net income was only \$22,892.00. In this year the tax return does not indicate Mrs. Pringle was employed."

As his problems deepened, Woody Pringle turned to God. The forensic accounting shows he offered \$25,000 in church donations in 2009 from his office trust account, where he had deposited some of the money he stole. He wrote a will by hand Jan. 26, 2010.

Near the top, he said: "I acknowledge Jesus Christ as my Lord and savior. I thank God for my life and all blessings, including my wife, Rachel, and my children ..."

His obituary said: "Woody loved The Church In The Son In Orlando Florida and dedicated all of his life to his faith in God."

He designated Rachel Pringle executor of his estate, waiving any accounting, and left her his share of the Florida house, along with Wachovia and Merrill Lynch accounts.

He divided personal property among his wife, children and stepchildren. Gillespie hired another attorney to go after proceeds from Pringle's life insurance policy. The insurer, Massachusetts Mutual Life, wound up filing a federal court complaint to sort out who should get the money. Attorneys for Pringle's estate agreed that his second wife, Cynthia, could have the 50 percent promised her in the divorce, which amounted to \$402,692. Rachel Pringle received \$362,692 after reaching a Chancery Court settlement with Pringle's estate. Creditors received notice and a hearing before her settlement was approved.

Danny Pringle's final visit with his brother was one of their best. Over the years, the two had traveled all over the country to play golf. Danny Pringle treated his brother each November to a police officer's golf tournament. Woody Pringle wasn't allowed to pay for a thing.

"He was bombarded financially by so much," Danny Pringle said. "I told him, this is one week out of the year where you're not going to spend a penny, and I made sure he didn't."

They played golf in Sarasota, Fla., three weeks before Woody Pringle died. "It was the best week of golf and the most fun I've ever had with him, I think," Danny Pringle said. "We had a great week."

He got a card in the mail from Woody Pringle after returning home from his brother's funeral in Gulfport. It was sent the day before Pringle killed himself. Danny Pringle was hoping the card held answers, but it did not. It was one of those brother cards, containing only a few handwritten lines. "Thank you for caring about me," it said.

Danny Pringle will always wonder what his brother was thinking. It is never over, he said.

"He was a great big brother," Danny Pringle said. "He was a great father. He raised two families. He was just the best man I've ever known. I just wish I knew more about why and what he was doing and what he was thinking, but I don't and he didn't give us any answers."

Red flags flying

At the same time Woody Pringle was spending money in Florida, he was emptying the accounts of unsuspecting victims in Gulfport.

Red flags waved all around him.

For example, Chancery Clerk McAdams had been appointed guardian over

an estate left to a juvenile whose father died suddenly. The young man, living in Nevada, wanted his money because he was about to turn 21. He called Gulfport attorney Richard J. Smith, who went to court to get the guardianship terminated and the money distributed.

Chancery Judge Carter Blise on June 5, 2008, ordered that an account balance of \$169,000 be transferred to Pringle's office trust account, with Pringle to keep a \$1,750 fee. He also ordered that proof of payment to the juvenile from the trust account be filed with the court.

The young man never got his money. "I got some song and dance from Woody," Richard Smith said. "It was all something he made up I, just like everybody else, trusted Woody." Attorney Smith said Pringle kept putting him off about the money. The attorney has filed a claim on the young man's behalf against Pringle's estate.

By 2007, Julie Smith suspected something was amiss with the trust account Pringle managed for her mother, Soon Pak. She said they could not get him to take care of one of her mother's Biloxi homes, heavily damaged by Katrina, and a building where her business had been. They wanted to bring their mother home. She had been living in Alabama with her other daughter when Katrina hit.

"We poured every cent we had into that house trying to make it better and when we went to Woody for reimbursements, he would only partially reimburse us sometimes," Julie Smith said. "Sometimes, he would procrastinate for weeks: 'I have to do this, I have to do that, I have to put a court order in.' We would go six to eight months at a time arguing with his office every day."

Smith put herself through casino dealer's school, then went to work and used the money she earned to make repairs. She and her children lived in the bedroom of the damaged house as she worked on it.

"I had to do everything myself, paycheck to paycheck," she said. "My kids had to sacrifice a lot. I remember them going through so much, because the little kids down the road were calling them poor and making fun of them. I could only do so much myself. I couldn't afford to hire contractors." Smith's attorney at the time, Jane Meynardle of Biloxi, prodded Pringle to do his job. Meynardle sent him an email in May 2008. It read, in part: "I just heard from Julie. She says the neighbors cut down the tree on the Bilglade property that was hanging over their fence (which I think you had gotten authority to get done) and it is now lying in the yard. She would appreciate it if you could have it removed." Meynardle also complained that Pringle had failed to file a supplemental insurance claim when rainwater leaked through an area he had not gotten repaired after the hurricane, causing the garage ceiling to collapse. Time to file the insurance claim would run out in a few months, she warned.

In a reply, Pringle said Smith should call a tree service to remove the tree and he would pay the bill, and that she should contact a contractor about the house repairs. He said he would deal with the insurance company once he received the repair estimate.

And on it went. Another home Pak owned was cited for city ordinance violations, taxes were delinquent on Pak's real estate, her income taxes had not been paid and, Meynardle pointed out in June 2010, Pringle had failed for four years to file an accounting of Pak's assets. He told her not to worry. Pak's account held \$267,059. Records show the account balance was actually at \$86.46 by month's end.

Meynardle told Pringle in a letter in May 2010 that Pak's real estate had been sold for taxes at the courthouse, with the exception of the Bilglade house, where the mortgage company paid the taxes. Taxes had not been

paid for so long on her old Tokyo Bathhouse property, she said, it was about to be unredeemable.

Marcie Baria, the current attorney for the Smiths, does not understand why the delinquent property-tax sales failed to raise the suspicions of Chancery Clerk McAdams, whose office handles them.

McAdams even signed checks to Pringle on Pak's account, although records show McAdams was not authorized to do so.

McAdams would not discuss specifics of the situation because of the ongoing litigation. Attorneys involved in the situation do not believe McAdams knew what Pringle was doing.

McAdams did make one comment about Pringle:

"The dealings I had with him, he seemed to be very professional. He seemed to know what he was doing and, apparently, the court respected him. Of course, I am the clerk of that court. I took it from that that he was respected in the court, he was a respectable man by the bar.

"It's a shame what this guy did. It's a shame how many people trusted him. Who he picked out was terrible, who he chose to hurt, it's just a shame. That's my whole position."

Meynardie, who did not respond to an interview request, finally badgered Pringle to file an accounting of Pak's assets in September 2010. The accounting he filed in Chancery Court was later found to be fabricated. The social work office at the Department of Veterans Affairs in Biloxi also found something amiss with one of its guardianship accounts Pringle managed. It just didn't look right. The office urged McAdams to get a statement directly from the bank, attorneys said. McAdams did so in December 2010. With that simple move, Pringle was caught.

McAdams summoned Pringle to the meeting. Hours before Pringle's body was found in Florida, McAdams filed for an order to freeze Pringle's trust account, court records show.

In 2008, Pringle had substituted himself in place of McAdams as guardian of the veteran, court records show. In less than a year, Pringle had written checks to his trust account totaling \$136,000 from the veteran's funds.

McAdams, the court records says, was unaware of the substitution.

Chancery Judge Jim Persons granted the restraining order that same day.

Reliving the nightmare

The discovery came too late for Soon Pak and other victims.

Julle Smith feels like she failed her mother. Smith said she no longer trusts anyone. One of the hardest things for her is that Pak has no short-term memory because of her brain surgeries. Pak forgets she has lost her money. She wants to know where it has gone. She wants to know why she can't take her grandchildren on vacation.

They are living in an upper-middle-class subdivision in North Biloxi, in the home her mother designed and had built in the 1990s. But upkeep is expensive and the only assets Pak has left are tied up in the divorce case. "I don't know what I'm going to tell her if we have to sell the house," Smith said, beginning to cry. "How am I going to explain that to her? I used to watch her and every time she would realize what happened, she would fall to the ground and she'd say that she should have died during the surgery and none of this would have happened, and that it's her fault and that she wasn't strong enough and that she failed us.

"That's the hardest thing to watch, having to watch it repeat every day. It's a whole new realization every day until she grabs the memory. I had to tell her what was happening. She was wondering why all these people were calling, and lawyers. She said, 'Julle, tell me the truth.' But I couldn't get up for hours when they told me Woody killed himself. I feel like I failed her and

I have to watch her go through that misery over and over.*

A jambalaya of commentary, politics, culture, and jackassery in Jackson, Mississippi

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Wednesday, March 21, 2012

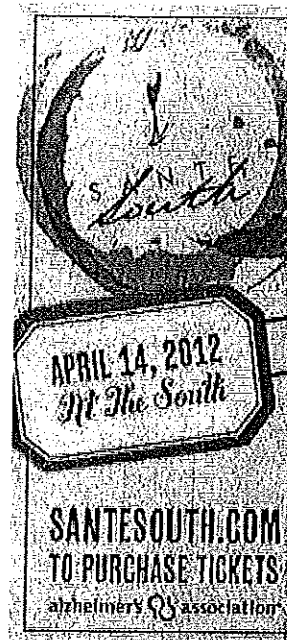
Hinds County Chancellor Dewayne Thomas imprisoned suspended attorney Michael J. Brown at a hearing yesterday. Judge Thomas ruled he committed fraud and perjury in the guardianship of De Mon McClinton. Bond was set at \$250,000. The order is posted below.

Damon McClinton inherited \$3 million when his mother, Rebecca Henry, died in 2000. Ms. Henry was the daughter of Mississippi civil rights legend Aaron Henry. Damon McClinton's father, Thomas, hired attorney Mike Brown to establish a guardianship for young McClinton. Then-Chancellor Stuart Robinson established a guardianship and ordered Mr. Brown to deposit the money in a bank account and decreed the money could not be withdrawn without court approval.

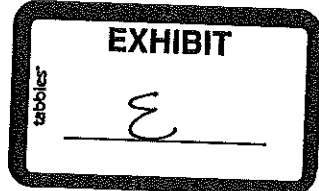
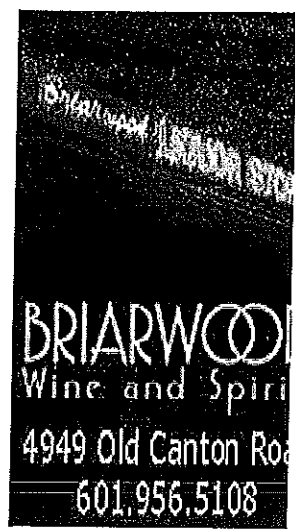
Judge Thomas ruled at a February hearing Mr. Brown never deposited the money in an account nor was one ever established. Judge Thomas threw Mr. Brown in jail after he could not account for the money. The attorney also claimed the file (he checked it out in 2006) and bank statements were destroyed when a water pipe burst in his office. Judge Thomas set bond at \$100,000 at a later hearing. Mr. Brown made bail and is free. Judge Thomas ordered him to deposit \$1.2 million with the court or provide an accounting for all money for the guardianship of De Mon McClinton.

The hearing began after Mike Brown and his attorney Clayton Lockhart arrived 15 minutes late. Judge Thomas called Special Master Paul Rogers to the stand. Mr. Rogers investigated the estate for the court and issued a report (Copy of report). He testified \$1.2 million of De Mon McClinton's money went directly into Brown's attorney account at Trustmark and that the overall amount the attorney improperly received was \$1.54 million. Mr. Rogers said those funds were used to loan nearly \$600,000 to Linus Shackelford. Brown also loaned himself money out of the account. Rogers also took issue with the \$398,000 fee Brown charged the estate in 2001 for establishing the guardianship. He said Brown would have had to devote nearly two thousand hours at his \$150 per hour rate to earn that fee, which he said was impossible. He also said Brown's fee of \$110,000 for an opinion letter was "fraud" as he literally copied an opinion letter from another attorney.

His report states accounts were opened for the money but the bank was never informed of the



EMAIL ADDRESS
kingfish1935@gmail.com



court restrictions. The report also states Thomas McClinton, Mike Brown, and to a lesser degree Lin Shackelford (through loans) helped themselves to a great deal of money that was supposed to be held in trust for young De Mon.

McClinton attorney Brent Hazard asked the Special Master if he was "certain he did not deposit all monies into an account until further order of this court?" Mr. Rogers said "as far as I can tell, no money was deposited into such an account. The Trustmark account was not a restricted account." Judge Thomas looked as if he were disgusted. Mr. Rogers said he had established 150- 250 guardianships in his career. He stated if the bank "does its job and follows a court order", there should be no way for a layman to get "that money".

Mr. Rogers said he found a box labeled "McClinton" that contained missing files and documents for the estate. They were the same documents Mr. Brown said were destroyed in a notice to the court filed February 1, 2012. Mr. Brown said two major water leaks took place in his office since 2007 and the McClinton file and Mr. Brown's old bank records were destroyed. Judge Thomas ruled he committed perjury in his order. However, it must be pointed out Mr. Brown did provide to the court a bundle of checks (estimated to be between 50-75 in number) that were written by the attorney.

Mike Brown assumed the stand. He stated he had no money to deposit with the court because he had provided an accounting for all money for the estate. Attorney Brent Hazard asked how many of the "50-75 checks were authorized by court order." There was a long pause before Mike Brown answered. Mr. Brown said "I think me and the court disagree. The checks to Shackelford were authorized" and that Judge Robinson (the original chancellor when the guardianship was established) authorized his transactions in a conversation in chambers. Mr. Hazard asked if such authorization was mentioned in any order by the court. Mr. Brown replied "yes" when he was asked if he was aware the court said no money could be spent or transferred without its approval.

Mr. Brown then admitted he gave money to Thomas McClinton, De Mon's father, without court approval. He said he thought it was "ok" since Thomas said it was to take care of De Mon. The special master testified earlier Mr. Brown wrote checks for Thomas McClinton to purchase eight cars (including one at Blackwell for a Lottie Campbell), rental properties from Lottie Campbell, and other items purchased by McClinton. Mr. Rogers also testified Mr. Brown wrote checks to himself or to "cash". The attorney said he never kept the money for himself.

Brown then said "I realize I did not do things the way they were supposed to be done and I apologize to this court." He then said "part of the problem with this case was when De Mon's mother died, he did not have a real relationship with his dad". He claimed when De Mon's mother died, the family would not let Thomas have custody of his son so he helped Thomas get custody of De Mon. He said after the guardianship was established, Thomas came to him and said he needed money for De Mon to buy vehicles to "compete against Aaron (his brother)". He said he told him they couldn't do it that way because Aaron could take custody so they did it "this way". Mr. Brown said "I did it this way to protect De Mon" and then said "I am paying the ultimate price for this because I'm being condemned. I apologize to my family and I apologize to my daughters on this whole thing.

Mike Brown didn't stop with apologies but delved into the investments with Shackelford. He said he



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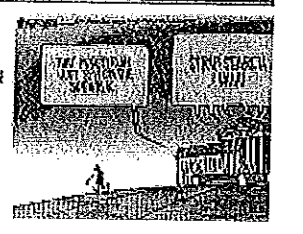
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Deb Milbrath

Freelance

Apr 5, 2012

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Mike Smith

Las Vegas Sun

Apr 5, 2012

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Neighborhoods -

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ban. He said the properties purchased from Lottie Campbell he thought would be investments for De Mon that would generate a return after they "were developed." The properties are located on streets such as Carnation and Waycaster (Check their location.). He called them a "good investment for De Mon". "He needed time to develop his relationship with De Mon" and that they had one. "Once Shackelford pays the money that is owed by him, De Mon is going to be way ahead in the game. I apologize to the court and realize I have done wrong." Mr. Brown then said "If I had done it the way it was supposed to be done, then De Mon probably would not have become what he became."

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MARSHALL RAMSEY

Upon questioning by Mr. Lockhart, Mr. Brown said he had discussed the Shackelford investment with Judge Robinson. Judge Thomas finally had enough and said there would be no more references to alleged conversations with judges that did not exist in any record*. He then said "regards to these checks that I wrote, they were written on behalf on Thomas McClinton" for investments... He said I always understood the checks were lost. I did not find the checks. Mr. Rogers tore up my house look for stuff, he could not find anything. I had a call from a friend of mine in Iraq., I mean Afghanistan, and he had put some of my stuff in his office.." Mr. Hazard interrupted by Judge Thomas allowed him to continue (with a wry smile). "He thought they were in his storage locker. They were not in his storage locker. I went upstairs in my attic, actually fell through my daughter's ceiling, and when I fell through my daughter's ceiling, I put my hand through a box marked "Christmas lights" but it was not Christmas lights, it was these checks. Thats how I found the checks." Mr. Brown then testified again "I did not get any of this money" and that it all went to Thomas, De Mon. Brown again brought up alleged discussions with the previous Judge and claimed he had "approved" the investments. Judge Thomas finally had enough and told the attorney not to mention any alleged conversations with other judges. Mr. Brown also stated upon direct questioning he has not carried any professional liability insurance since the "early 1990's". Mike Brown graduated from law school in 1993.

- Tuesday Free-For-All
- Fit-to-Fat-to-Fit Blog: 4/6
- Monday Free-For-All
- Risen
- The Jim and Jill Gaston Lecture Series

CLARION LEDGER

- Craft beer lovers toast n law
- Out-of-state tuition waived
- Northbay seeking court on ban
- Jail sees 3rd recent frac
- 2 murder cases end in l charge

Mr. Brown Mr. Brown said in documents filed with the court this year the checks were destroyed by water damage when pipes burst in his office. Judge Thomas jailed Mike Brown on contempt of court and perjury. His bond is set at \$250,000.

THE REZ NEWS

- Rankin School Board M Wednesday
- Relay For Life At Walme
- Relay For Life At St. Ma

*Mr. Brown claimed the same type of conversations at a recent hearing on another guardianship case in Rankin County. This correspondent witnessed the attorney repeatedly claiming Judge Grant approved in a conversation the parents transferring funds held in a guardianship account for their child. Judge Grant said they never had a conversation and finally sternly admonished Mr. Brown for making such allegations.

THE MARKET TICKER

- The Market Ticker - Tickerguy On Capital Account
- The Market Ticker - Oh, It's Just "Isolated Incident Eh?
- The Market Ticker - JP Morgan (And Others) Not To Be Neutered

AND THE VALLEY SHOO

- LSU's Worst Hires

Jackson Jambalaya

A jambalaya of commentary, politics, culture, and jackassery in Jackson, Mississippi

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Friday, May 20, 2011

\$362,342 judgment awarded against Vann Leonard.

Let the judgments being. A judgment for \$262,342 was awarded against local attorney and convict Vann Leonard by a Madison County Circuit Court on May 11, 2011. Anita Nalk and Hitesh Desai filed suit against Mr. Leonard in Madison County Circuit Court on May 3, 2011. The plaintiffs state they placed \$125,000 in Mr. Leonard's trust account in June 2008 and loaned him \$148,150 in 2009. Mr. Desai also deposited another \$89,192 in 2010 in his trust account. The monies were placed into his account for the purchase of properties and buildings as part of plaintiff's real estate transactions. A copy of the judgment is posted below.

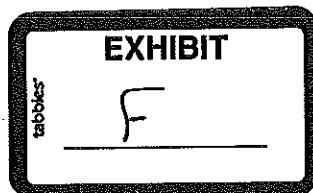
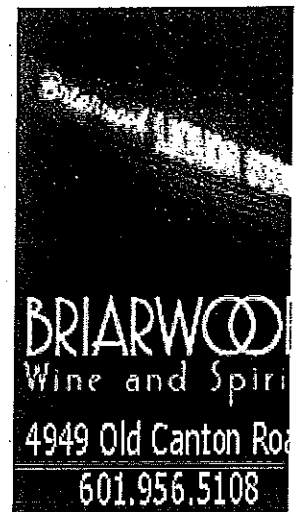
Rankin County Chancery Judge Grant incarcerated Mr. Leonard on May 5, 2011 after finding him in contempt of court. Rankin County authorities confirmed in a phone call this morning Mr. Leonard is still in jail. The Chancellor imprisoned him after Mr. Leonard failed to return \$111,925 to the estate of Bobbie Downing and provide an accounting of the estate. Earlier post. Judge Grant decreed Mr. Leonard will not be released from jail until he returns the money, submits an accounting of the estate, and pay \$1,500 in attorney's fees to the heir who filed the contempt of court action. A review of the lawsuits filed against Mr. Leonard shows Mr. Leonard is accused of embezzling nearly \$900,000.



EMAIL ADDRESS

kingfish1935@gmail.com

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IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

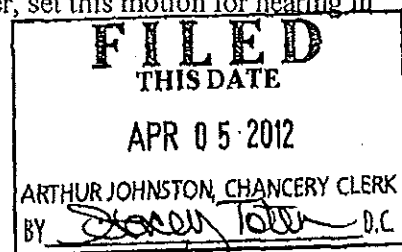
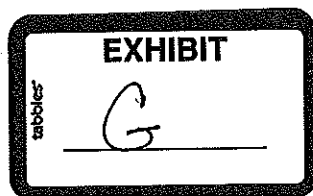
In Re: Conservatorship of Matthew Blair Allen	45CHI:30-cv-00541
In Re: Guardianship of Cameron Thomas Crockett	45CHI:96-cv-00085
In Re: Guardianship of Keunjala Travis	45CHI:97-cv-00704
In Re: Estate of Claude Moore	45CHI:99-cv-00869
In Re: Guardianship of William Alexander Neely	45CHI:01-cv-00240
In Re: Guardianship of Bryantae Jequan Garrett	45CHI:04-cv-00656
In Re: Conservatorship of Wesley Grant Hulsey	45CHI:07-cv-00822
In Re: Conservatorship of Mary Florence Lynch	45CHI:07-cv-01085
In Re: Guardianship of Jakalah Ryanna McDowell	45CHI:10-cv-02327
In Re: Estate of Marguerite M. Phillips	45CHI:10-cv-02419

**CLERK'S ENTRY OF DEFAULTER
AND MOTION FOR CITATION THEREON**

*Cases Assigned to Judge Cynthia L. Brewer
for Accountings Due During January and February, 2012 or Prior Terms of Court*

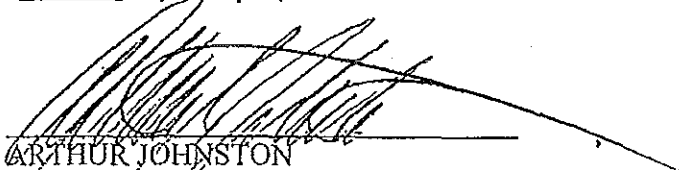
COMES NOW the Honorable Arthur Johnston, Clerk of the Chancery Court of Madison County, Mississippi, pursuant to MISS. CODE ANN. § 91-7-283, and hereby enters the defaulter of the fiduciaries in the above-captioned causes, and, further, moves the Court for appropriate orders and citations thereon and prays that the Court will set the same down for hearing on a date certain. In support of such motion, the Clerk would show that insofar as he has been able to ascertain, in each cause listed above, the duly appointed executor/trix, administrator/trix, guardian, or conservator/trix has failed to present and settle his or her account within the prior calendar year as required by MISS. CODE ANN. § 91-7-277, and, further, that the requirement of such accounting was not waived by the Court.

WHEREFORE, PREMISES CONSIDERED, the Clerk enters the defaulter of each on the Court's docket and moves that the Court examine each such matter, set this motion for hearing in




each cause, and take such action as the Court may deem appropriate, including, where necessary,
the issuance of the appropriate citations.

RESPECTFULLY SUBMITTED this 5th day of April, 2012.


ARTHUR JOHNSTON
Chancery Clerk

PREPARED BY:


ARTHUR JOHNSTON, ESQ. -- MS BAR # 9593
CHANCERY CLERK
P. O. BOX 404
CANTON, MS 39046

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

In Re: Conservatorship of Matthew Blair Allen	45CH130-cv-00541
In Re: Guardianship of Cameron Thomas Crockett	45CH196-cv-00085
In Re: Guardianship of Keunjala Travis	45CH197-cv-00704
In Re: Estate of Claude Moore	45CH199-cv-00869
In Re: Guardianship of William Alexander Neely	45CH101-cv-00240
In Re: Guardianship of Bryantae Jequan Garrett	45CH104-cv-00656
In Re: Conservatorship of Wesley Grant Hulsey	45CH107-cv-00822
In Re: Conservatorship of Mary Florence Lynch	45CH107-cv-01085
In Re: Guardianship of Jakalah Ryanna McDowell	45CH110-cv-02327
In Re: Estate of Marguerite M. Phillips	45CH110-cv-02419

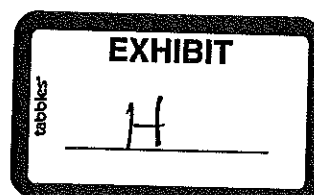
**ORDER ON CLERK'S ENTRY OF DEFAULTER
AND MOTION FOR CITATION THEREON**

*Cases Assigned to Judge Cynthia L. Brewer
for Accountings Due During January and February, 2012 or Prior Terms of Court*

IT APPEARING to the Court that the Honorable Arthur Johnston, Clerk of the Chancery Court of Madison County, Mississippi, acting pursuant to Miss. Code Ann. § 91-7-283, has entered the default of the fiduciaries in the above-captioned causes with regard to annual accountings and has moved the Court for a hearing thereon and for appropriate orders and citations thereon, as may be necessary, and

IT FURTHER APPEARING to the Court that in each such cause, the duly appointed executor/trix, administrator/trix, guardian, or conservator/trix has failed to present and settle his or her account within the prior calendar year as required by Miss. Code Ann. § 91-7-277, and, further, that the requirement of such accounting was not waived by the Court,

THE COURT FINDS that, in the interest of justice, the fiduciaries in said causes and their counsel should be given an appropriate time to respond to said motion and cure said default by the filing of an appropriate accounting,



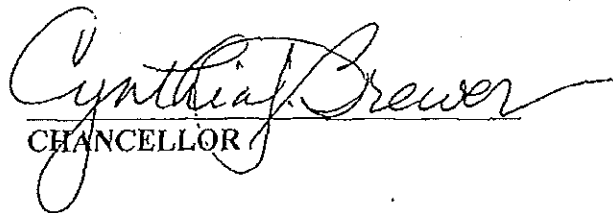
IT IS THEREFORE ORDERED AND ADJUDGED that each fiduciary in each of the above causes shall, within sixty (60) days from the date hereof, cure said default by filing his or her annual accounting as required by statute, and

IT IS FURTHER ORDERED AND ADJUDGED that a hearing on the Clerk's motion, together with a hearing on the approval of each such accounting as may be hereafter filed for record, shall be and the same is hereby set for 1:30 a.m./p.m. on the 22nd day of June, 2012 in Courtroom No. 2, second floor, Madison County Chancery and Administrative Building, 146 West Center Street, Canton, Mississippi.

IT IS FURTHER ORDERED AND ADJUDGED that the filing of an accounting and the entry of an Order approving the same prior to the date set forth herein above shall relieve counsel from appearing at said hearing.

FINALLY, IT IS FURTHER ORDERED AND ADJUDGED that the Clerk shall serve notice of the entry of his default and notice of said hearing by providing a copy hereof to all counsel of record in the above causes utilizing the Mississippi Electronic Courts system. Counsel are directed to be mindful of Rules 6.02 and 6.17 of the Uniform Chancery Court Rules.

SO ORDERED AND ADJUDGED this the 9th day of April, 2012.


CHANCELLOR

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN RE _____

CAUSE NO. _____ B

ORDER

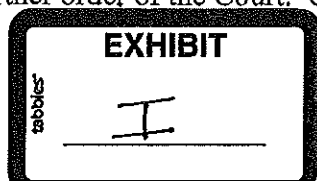
THIS CAUSE having come on this day for hearing on the Clerk's Entry of Defaulter and Motion for Citation Thereon, and the Court, having reviewed the matter in open Court, finds that:

Due to lack of proper notice to counsel of record, or at the request of said counsel, the hearing in this cause on the Clerk's Motion for Entry of Defaulter and for Citation Thereon is continued until _____ on _____, 2011 in Courtroom No. 2, second floor, of the Madison County Chancery and Administrative Building. *Initialed:* _____

The Court called this matter for hearing this date and counsel of record failed to appear; therefore, pursuant to Uniform Chancery Court Rule 6.17, _____, Esq., be and he/she is hereby ordered to appear before the undersigned on _____ at _____ am/pm in Courtroom No. 2, second floor, of the Madison County Chancery and Administrative Building to show cause, if any, why he/she should not be held in contempt for failing to appear for said hearing and failing to prepare and submit an accounting herein. *Initialed:* _____

The Court considered and approved the accounting filed in this matter on _____, 2011. Consequently, the Clerk's Entry of Defaulter and Motion for Citation Thereon is hereby vacated and set aside. *Initialed:* _____

The Court has considered this matter and finds that annual accountings should be and they are hereby waived until further order of the Court. Consequently, the Clerk's Entry of



Defaulter and Motion for Citation Thereon is hereby vacated and set aside. *Initialed:* _____

The Court has considered this matter and finds that annual accountings have been previously waived. Thus, the Clerk's Entry of Defaulter and Motion for Citation Thereon is hereby vacated and set aside. *Initialed:* _____

The Clerk's Motion for Additional Cost Deposit is GRANTED/DENIED, and counsel is directed to tender the sum of \$ _____ *instanter* as an additional cost deposit for the reasons outlined in said motion. *Initialed:* _____

SO ORDERED AND ADJUDGED this the _____ day of June, 2011.

CHANCELLOR

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP OF
BETTY B. POE

CAUSE NO. 2009-723 G

SHOW CAUSE ORDER

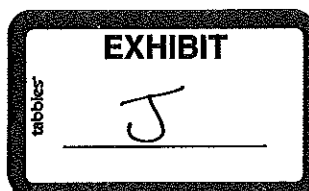
IT APPEARING TO THIS COURT that an annual accounting as required by Miss. Code Ann. § 98-13-67 is past due in this cause, and

IT FURTHER APPEARING that the Court entered an Order in this cause on March 4, 2011, granting the fiduciary and counsel of record a period of sixty (60) days within which to file an annual accounting herein, said Order having been mailed to counsel of record on said date,

IT IS THEREFORE ORDERED AND ADJUDGED that, pursuant to Uniform Chancery Court Rule 6.17, Trae Sims, Esq. and David M. Poe, Conservator be, and they are hereby, ordered to appear before the undersigned on **July 16, 2011 at 2:00 pm** to show cause, if any, why he should not be held in contempt for failing to prepare and submit an accounting herein.

SO ORDERED AND ADJUDGED this the _____ day of May, 2011.

CHANCELLOR



IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN RE GUARDIANSHIP OF ALEX CORIELLE CARSON

CAUSE NO. 1998-013 B

ORDER AND CITATION TO APPEAR

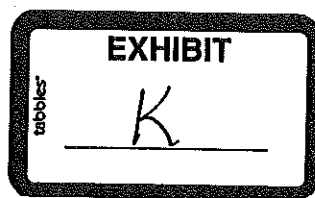
THIS CAUSE having come on this day for hearing on the Clerk's Entry of Defaulter and Motion for Citation Thereon, and the Court, having reviewed the matter in open Court, finds that:

1. Due to the incarceration of counsel of record, the hearing in this cause on the Clerk's Motion for Entry of Defaulter and for Citation Thereon is continued until **1:30 pm on September 23, 2011** in Courtroom No. 2, second floor, of the Madison County Chancery and Administrative Building; and

2. The Guardian herein, Terri Carson Wilson, whose address is 109 Magnavox Street, Flora, MS 39071, be and she is hereby cited to appear on said date and time to show cause, if any, why she should not be held in contempt for failing to prepare and submit an annual accounting herein.

SO ORDERED AND ADJUDGED this the _____ day of June, 2011.

CHANCELLOR



IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN THE MATTER OF THE GUARDIANSHIP
OF SARAH GABRIELLE BOWEN

CAUSE NO. 1996-659B

ALIAS SUMMONS

THE STATE OF MISSISSIPPI

TO: MS. TRACY BOWEN
905 HAMLIN AVE.
TUPELO, MS 38804

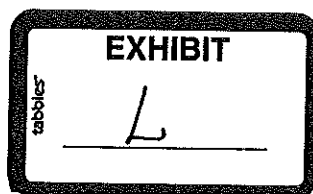
You are summoned to appear and defend against the Clerk's Motion for Entry of Defaulter and Citation Thereon filed against you in this action at 1:30 o'clock p.m. on the 23rd day of September, 2011, in Courtroom # 2 of the Chancery Court Courthouse, 146 West Center Street, Canton, Mississippi, and in case of your failure to appear and defend a judgment will be entered against you for the relief demanded in the Motion.

You are not required to file an answer or other pleading but you may do so if you desire.

Issued under my hand and the seal of said Court, this ____ day of August, 2011.

ARTHUR JOHNSTON, CHANCERY CLERK

BY: _____, D.C.



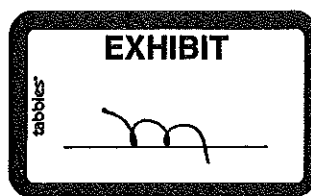
IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN RE: GUARDIANSHIP OF JAYLA RASHUNE TILLIS	45CH1:07-CV-0771
IN RE: ESTATE OF KODAS MARSHALL, DECEASED	45CH1:07-CV-0790
IN RE: ESTATE OF DEBORAH GOREE, DECEASED	45CH1:07-CV-0825
IN RE: GUARDIANSHIP OF SHANNON T BRIGGS, II	45CH1:07-CV-0869
IN RE: ESTATE OF NILIMA SOLANKI	45CH1:07-CV-0903
IN RE: GUARDIANSHIP OF DESTINY AURIEL JACKSON	45CH1:07-CV-0976
IN RE: GUARDIANSHIP OF ELLIOT GOREE	45CH1:07-CV-0986
IN RE: GUARDIANSHIP OF JOHN AARON GOREE	45CH1:07-CV-0987
IN RE: CONSERVATORSHIP OF BOBBIE FISK	45CH1:07-CV-1012
IN RE: CONSERVATORSHIP OF MARY FLORENCE LYNCH	45CH1:07-CV-1085
IN RE: ESTATE OF JOE D PHILLIPS, DECEASED	45CH1:07-CV-1105
IN RE: GUARDIANSHIP OF MADISON KAILEY COX	45CH1:07-CV-1123
IN RE: CONSERVATORSHIP OF LAURA LYNN HENLEY	45CH1:07-CV-1145
IN RE: ESTATE OF LILLIE MAE FLEMING BUSH, DECEASED	45CH1:08-CV-0023
IN RE: GUARDIANSHIP OF ERIKA OLIVIA JACKSON	45CH1:08-CV-0033
IN RE: ESTATE OF JAMES RUDOLPH MOORE	45CH1:08-CV-0037
IN RE: GUARDIANSHIP OF AMBER LE'ANNA GRANT	45CH1:08-CV-0111
IN RE: GUARDIANSHIP OF JADA MARTIN	45CH1:08-CV-0115
IN RE: GUARDIANSHIP OF GREGORY BLOUNT	45CH1:08-CV-0139
IN RE: ESTATE OF ANNIE L.G. ROBERTS, DECEASED	45CH1:08-CV-0321
IN RE: ESTATE OF MARY CATHERINE HARKINS, DECEASED	45CH1:08-CV-0379
IN RE: GUARDIANSHIP OF JACQUALYN STOKES	0:08-CV-0682
IN RE: ESTATE OF CRAIG THOMAS	0:09-CV-0599
IN RE: ESTATE OF EVELYN GRIFFIN	0:09-CV-0859
IN RE: ESTATE OF JOHN W. BROWN	0:09-CV-1210
IN RE: ESTATE OF RAYMOND LESLIE BURNETT III	0:09-CV-1397
IN RE: GUARDIANSHIP OF LINSEY PARTAIN	0:09-CV-1467
IN RE: CONSERVATORSHIP OF ROBERT R. BURRELL	45CH1:10-CV-0001
IN RE: GUARDIANSHIP OF JESSICA COOPER	45CH1:10-CV-0068
IN RE: CONSERVATORSHIP OF HELEN J. ARTIS	45CH1:10-CV-0096
IN RE: THE GUARDIANSHIP OF WILLIE DEON CHANEY	45CH1:10-CV-0319
IN RE: ESTATE OF ARTHARAVIS HARRIS	45CH1:10-CV-0447
IN RE: CONSERVATORSHIP OF FRANCIS BEATRICE FREW	45CH1:10-CV-1576
IN RE: ESTATE OF ROBERT LEE TRAVIS	45CH1:10-CV-1622

CLERK'S MOTION FOR ADDITIONAL COST DEPOSIT

*Cases assigned to Chancellor Cynthia L. Brewer – Round 5
Wherein Accountings Were Due Between January 1, 1980 and June 30, 2011*

COMES NOW, Arthur Johnston, Clerk of this Honorable Court and files this his Motion
for Additional Cost Deposit pursuant to Rule 9.01(5) of the Uniform Chancery Court Rules and



Rule 3 (b) and (d) of the Mississippi Rules of Civil Procedure, and in support thereof would show as follows:

1.

The fiduciaries in the above causes have failed to file, or have failed to timely file, their annual accounts therein. Consequently, the Clerk performed significant research and review of said matters in an effort to secure compliance by said fiduciaries with the statutory requirements of Miss. Code Ann. § 91-7-277.

2.

In addition, the Clerk (a) entered the defaulter of each on the Court's docket, (b) moved the Court for appropriate orders and citations thereon, and (c) gave notice and undertook other administrative functions relative to securing the filing of appropriate accountings therein, including copying and mailing of pleadings and orders of the Court to counsel of record, and, in some cases, to the fiduciaries themselves.

3.

Finally, the Clerk attended a hearing on said defaulters and undertook follow up efforts in many cases, all in order to insure that fiduciaries complied with their duty to account to this Court for their receipts and disbursements.

WHEREFORE, PREMISES CONSIDERED, the Clerk moves the Court for an Order increasing the cost deposit by an amount not less than \$10.00 to be paid by the filing party in each cause set forth above in reimbursement of the Clerk's efforts as detailed herein.

RESPECTFULLY SUBMITTED this _____ day of June, 2011.

ARTHUR JOHNSTON
Chancery Clerk

PREPARED BY:

ARTHUR JOHNSTON, ESQ. – MS BAR # 9593
CHANCERY CLERK
P. O. BOX 404
CANTON, MS 39046
(601) 855-5526 (PHONE)

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN THE MATTER OF THE:

CAUSE NO. _____

CERTIFICATE OF FIDUCIARY

I, _____ fiduciary in this cause, have hereby read, understand and agree to the following:

1. I understand that I, as fiduciary, am required to protect and preserve the funds owned by the Ward, who is the person over whom I have charge.
2. I will not use any funds or make expenditures of the Ward's funds without prior Court approval.
3. I understand that the Court can and will find me in contempt if it is proven that I have violated any of this Court's order(s) and that appropriate sanctions will be levied by the Court for any violations.
4. I agree and understand that I must consult with my attorney on any questionable expenditure prior to making said expenditure in order to gain appropriate legal advice and court approval regarding those transactions.
5. I understand that unless waived by the Court in advance, I will be required to submit formal, annual accountings to the Court reflecting my expenditures of the Ward's funds.
6. My current address and phone numbers are as follows, and I understand that in the event this information changes, I must provide that information to the Clerk of this Court in writing.

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

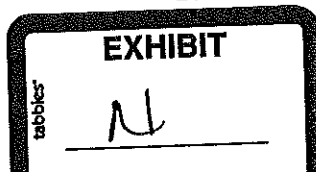
PHONE NO.: _____

EMAIL ADDRESS: _____

7. I have discussed with my attorney the duties and responsibilities required of my office as fiduciary and as set forth in this document, and I hereby agree to be bound by them.

Respectfully Submitted,

FIDUCIARY



SWORN ACKNOWLEDGMENT

STATE OF MS
COUNTY OF MADISON

This day personally appeared before me, the undersigned authority at law in and for the jurisdiction aforesaid, the within named _____, who having been by me first duly sworn, states on oath that the matters and facts set forth in the above Certificate of Fiduciary are true and correct as therein stated.

FIDUCIARY

SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____,
2012.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN THE MATTER OF THE:

_____ CAUSE NO. _____

CERTIFICATE OF ATTORNEY

I, _____, attorney for fiduciary _____,

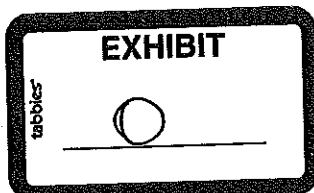
in this cause, do certify as an officer of this Court and member in good standing with the Mississippi State Bar Association, that I have fully and thoroughly explained the duties and obligations required of my client(s) as fiduciary in this action.

Respectfully Submitted,

Signature of Attorney: _____

Printed Name of Attorney: _____

Bar No.: _____



LOCAL RULES OF THE ELEVENTH CHANCERY DISTRICT

Rule 11. Certificate of Fiduciary and Certificate of Attorney

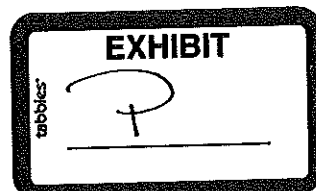
(a) In accordance with Miss. Code Ann. §91-7-283 et seq., and Rules 6.01, 6.02 and 6.03 of the Uniform Chancery Court Rules, in every case wherein a fiduciary is appointed by the Court, after taking his or her Oath:

(1) the fiduciary shall complete, execute, and file with the Clerk of Court a sworn Certificate of Fiduciary in the form attached hereto as Exhibit 1; and

(2) counsel for the fiduciary shall complete, execute and file with the Clerk of Court a Certificate of Attorney in the form attached hereto as Exhibit 2.

(b) The forms required by this Rule shall be completed, executed and filed with the Clerk of Court as a condition precedent to the Clerk's issuance of the appropriate form of Letters.

(c) Every fiduciary must advise the Clerk of Court in writing of any change of address of either the fiduciary or the ward or both.



LOCAL RULES OF THE SECOND CHANCERY DISTRICT

RULE NO. 15. Estates, Guardianships and Conservatorships. (Adopted 11/01)

A. Information worksheets required.

1. *At the time of filing a petition to open an estate, guardianship or conservatorship, the attorney and petitioners shall complete and file a Probate Worksheet in substantial conformity with Form CL.15A1.100. The clerk shall not issue Letters to the fiduciary until such information worksheet is complete and filed.*

B. Bonds required in estate matters

1. *Pursuant to § 91-7-67, Miss.Code.Ann., unless the requirement for bond is waived in a property probated last will and testament, bond in any estate may only be waived if the administrator is the decedent's sole heir or if all the heirs are competent and present their sworn petition to waive or reduce such bond.*

2. *Unless properly waived, bond should be established in an amount at least equal to the value of the estate. (§91-7-41). As the Court has no basis upon which to gauge the value of an estate at the time of the entry of an Order opening same, it is the responsibility of the Attorney to include in the original Petition a statement as to the value of the estate so as to allow for the establishment of an appropriate bond.*

3. *If bond has not been properly waived, it is the responsibility of the attorney to advise the Court if, at any time, the value of the estate exceeds the bond posted by the fiduciary.*

C. Annual accountings required.

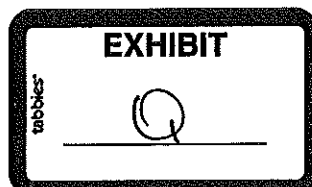
1. *Annual accountings are required in all estate matters unless property waived or pretermitted by the Court upon proper petition therefor.*

2. *In order to insure the proper and timely filing of accountings by all fiduciaries and their attorneys, the Court hereby adopts the following procedure: a Upon the entry of any Judgment or Order appointing a fiduciary in any estate,*

a. Notice of Due Date of Accounting in substantial conformity with Form CL.15C2a.100 shall be mailed by the Clerk to each fiduciary and the fiduciary's attorney notifying them that the first annual accounting is due one year from the date such estate is opened.

b. Thereafter, each year in which an accounting is due, a Notice of Accounting Due in substantial conformity with Form CL.15C2b.100 shall be mailed by the Clerk to each fiduciary and the fiduciary's attorney notifying them of the month in which an accounting is due. Such Notice shall be mailed at least thirty (30) days prior to the due date of the accounting.

c. The Clerk shall determine in the month following the month in which an accounting is due the identity of each file in which the fiduciary and attorney have failed to file an accounting or failed to have the accounting excused or deferred in writing by the Court. Such



information shall be provided by the Clerk to the Court Administrator, who shall bring same to the attention of the Court.

d. An Order To Show Cause for failure to file the accounting in shall thereupon issue to such derelict, fiduciary and attorney citing them to appear before the Court at a time and date certain to show cause why such accounting was not filed and for the Court to consider whether the fiduciary and attorney should be fined and removed for such failure, and to consider such further action as the Court may deem appropriate. Such Order to Show Cause shall be in substantial conformity with Form CT.15C2d.100.

e. Attorneys and fiduciaries desiring to defer an accounting shall present to the Court a written Motion setting forth the reason such deferment is appropriate. Attached to such written request shall be the proposed Court order granting such deferment of annual accountings.

f. Absent compelling reason therefor, no such deferment of annual accountings will be granted in any estate in which regular withdrawals are made or anticipated.

JUDICIAL DECISIONS

1. In general.

This provision bars only actions on contract, not actions in tort. *Bullock v. Young*, 243 Miss. 146, 137 So. 2d 777 (1962).

A personal representative is liable to suit on a claim arising from the alleged

negligence of his decedent, notwithstanding the estate has been declared insolvent. *Bullock v. Young*, 243 Miss. 146, 137 So. 2d 777 (1962).

§ 91-7-277. Annual accounts.

Every executor or administrator, at least once in each year or oftener if required by the court, shall present under oath an account of his administration, showing the disbursements, every item of which and the amount thereof to be distinctly stated and supported by legal voucher, and it shall also show the receipts of money and from what sources. The failure to account annually shall be a breach of the administration bond, for which it may be put in suit, or the executor or administrator may be removed; but the court may, on application and on cause shown, extend the time for accounting. In the event that the account shall be presented by a federally regulated bank, thrift or trust company, and such account or the petition for the approval of same shall contain a statement under oath by an officer of said bank, thrift or trust company showing that the vouchers covering the disbursements in the account presented are on file with said bank, thrift or trust company, such bank, thrift or trust company shall not be required to file vouchers. Provided, however, that said bank, thrift or trust company shall produce said vouchers for inspection of any interested party or his or her attorney at any time during legal banking hours at the office of said bank, thrift or trust company and, provided further, that the court on its own motion or on the motion of any interested party may require that said vouchers be produced and inspected at the time of hearing of any objections that may be filed to any annual accounts of any executors or administrators. The court shall examine all such accounts and the vouchers required to be filed or produced for inspection, and if satisfied that the account is just and true, it shall decree the same approved and allowed as a correct annual settlement. If the decree allowing and approving the account of any executor or administrator shall affirmatively recite that the vouchers to support the disbursements shown in the account were exhibited to and approved by the court, it shall not be necessary to file the vouchers in the cause, but they shall be preserved by the executor or administrator until after the final accounting has been approved.

Notwithstanding the foregoing, any record, voucher, claim, check, draft, receipt, writing, account, statement, note or other evidence which may be furnished, filed, probated, presented or produced, or required to be produced, by a federally regulated bank, thrift or trust company shall be deemed to be an original admitted, furnished, filed, probated, presented, or produced for all purposes and with the same effect as the original, if such financial institution produces a copy of such evidence from a format of storage commonly used by

EXHIBIT

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financial institutions, whether electronic, imaged, magnetic, microphotographic or otherwise.

SOURCES: Codes, 1857, ch. 60, art. 104; 1871, § 1164; 1880, § 2067; 1892, § 1947; Laws, 1906, § 2121; Hemingway's 1917, § 1789; Laws, 1930, § 1732; Laws, 1942, § 631; Laws, 1960, ch. 217, § 5; Laws, 1968, ch. 306, § 1; Laws, 1996, ch. 400, § 43, eff from and after passage (approved March 19, 1996).

Editor's Note — Section 81-1-57 provides that wherever the words "Department of bank supervision", or "department" when referring to the department of bank supervision, appear they shall be construed to mean the department of banking and consumer finance.

Cross References — Duty of chancery clerk to keep record of accounts allowed, see § 9-5-137.

Payment of inheritance tax before settlement of executor's accounts, see § 27-9-41. Final accounts, see § 91-7-291.

Annual accounts by guardians, see § 93-13-67.

Provision that accounts be personally signed and sworn to by executor or administrator, see Miss. Uniform Chancery Court Rule 6.14.

JUDICIAL DECISIONS

1. In general.

The Chancellor properly removed an administrator under § 91-7-277, where the administrator failed to file sufficiently specific accountings and inventories. *Kelly v. Shoemaker*, 460 So. 2d 811 (Miss. 1984).

The requirement of § 91-7-277 that annual accountings be made is mandatory and not simply advisory, and the fact that co-executors' failure to make annual accountings resulted in no loss to the estate was of no consequence. *Abernathy v. Smith*, 458 So. 2d 691 (Miss. 1984).

Statutory requirement that executor file vouchers for disbursements for annual accounts mandatory. *Ridgeway v. Jones*, 125 Miss. 22, 87 So. 461 (1921).

Executor may not pay claims not probated and allowed. *Ridgeway v. Jones*, 125 Miss. 22, 87 So. 461 (1921).

Expenditures for funeral expenses and monument may be allowed if reasonable. *Ridgeway v. Jones*, 125 Miss. 22, 87 So. 461 (1921).

RESEARCH REFERENCES

ALR. Application of dead man's statute in proceeding involving account of personal representative. 2 A.L.R.2d 349.

Am Jur. 31 Am. Jur. 2d, Executors and Administrators § 903.

CJS. 34 C.J.S., Executors and Administrators § 870.

Law Reviews. Symposium on Mississippi Rules of Civil Procedure: Pretrial Procedure, Applicability of Rules, and Jurisdiction and Venue — Rules 16, 81 and 82. 52 Miss. L. J. 105, March, 1982.

§ 91-7-279. Requirements of vouchers.

In every case where it is required that vouchers for disbursements in any annual or final account be filed, each such voucher shall be written upon, or affixed to, not less paper than a one half (½) page of legal cap, or a voucher may be an ordinary bank check of such size as is in general use. Each shall be entitled of the cause and numbered with the number of the case, and each shall

ander v. Rubel, 15 (1954).
 rance for attor-
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 .75 Miss. 72, 166

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 may ask court to
 a, 166 Miss. 899,

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 f. 899, 145 So.

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 f. 899, 145 So.

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 own v. Franklin,
 52 (1933).

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 egal work, while,
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 iduciary. Wells v.
 (Miss. Ct. App.

n in this section
 ciary who is also
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 ght to compensa-
 ly be commensu-
 l fees; nor is there
 ne fiduciary, as to

those separately identified services that were unquestionably performed in his capacity as an attorney, seeking compensation under this section, in lieu of being

paid for those particular services under § 91-7-299. Wells v. Evans, 740 So. 2d 332 (Miss. Ct. App. 1999).

RESEARCH REFERENCES

ALR. Allowance of fees for guardian ad litem appointed for infant defendant, as costs. 30 A.L.R.2d 1148.

Right to allowance out of estate of attorneys' fees incurred in attempt to establish or defeat will. 40 A.L.R.2d 1407.

Right of executor or administrator to extra compensation for legal services rendered by him. 65 A.L.R.2d 809.

Personal liability of executor or administrator for fees of attorney employed by him for the benefit of the estate. 13 A.L.R.3d 518.

Amount of attorneys' compensation in matters involving guardianship and trusts. 57 A.L.R.3d 550.

Amount of attorneys' compensation in proceedings involving wills and administration of decedents' estates. 58 A.L.R.3d 317.

Liability of estate for legal services of attorney employed by estate attorney

without consent of executor or administrator. 83 A.L.R.3d 1160.

Award of attorneys' fees out of trust estate in action by trustee against co-trustee. 24 A.L.R.4th 624.

Attorneys' fees: cost of services provided by paralegals or the like as compensable element of award in state court. 73 A.L.R.4th 938.

Am Jur. 31 Am. Jur. 2d, Executors and Administrators §§ 428, 430.

10 Am. Jur. Pl & Pr Forms (Rev), Executors and Administrators, Forms 1451 et seq. (compensation and allowances).

CJS. 34 C.J.S., Executors and Administrators § 896.

Law Reviews. 1978 Mississippi Supreme Court Review: Torts. 50 Miss. L. J. 137, March, 1979.

§ 91-7-283. Defaulters to be listed and cited.

Unless the court or chancellor has, by order entered on the minutes, designated another annual term for that purpose, it shall be the duty of the clerk at the first term of the chancery court of his county in each year to make up a complete and impartial list of all executors and administrators and guardians who have failed to present and settle their accounts within the year preceding. In each and every such case, the clerk shall enter the same on the motion docket and thereby move the court for an order on the defaulter; and the court shall, in each and every such case, order a citation to be issued for the defaulter and for the surety or sureties on his bond, returnable forthwith or at the next term of court. On the return thereof, unless sufficient cause be shown for such failure and that the same was not the result of negligence or contumacy, the court shall proceed against the delinquent executor, administrator, or guardian for a contempt, and may also remove him from office. If there be no such defaulter, the clerk shall so report and obtain an order reciting his said report to that effect, which order shall be entered on the minutes of the term. If there be any defaulter and the clerk shall fail to fully prepare the list and to enter the motions herein required, he shall not be entitled to any allowance for attendance on the term nor to any annual compensation for ex officio services to the court. Any allowance by the court contrary to the terms

of this section may nevertheless be recovered from the said clerk on his bond by the state tax commission, or by any other office similarly empowered, for the benefit of the county treasury; in addition to which, the clerk shall be liable on his bond at the suit of any party in interest who has been damaged in any case by the said failure of the clerk.

SOURCES: Codes, Hutchinson's 1848, ch. 49, art. 1 (94); 1857, ch. 60, art. 105; 1871, § 1165; 1880, § 2068; 1892, § 1949; Laws, 1906, § 2123; Hemingway's 1917, § 1791; Laws, 1930, § 1735; Laws, 1942, § 634.

Cross References — Docketing in matters testamentary, see § 9-5-203.

JUDICIAL DECISIONS

- 1. In general. trustee on its own motion, unless palpably unjust. *Nutt v. State*, 96 Miss. 473, 51 So. 401 (1910).
Supreme court will not interfere with action of chancery court in removing

§ 91-7-285. Process for derelict fiduciary.

Whenever it shall appear of record, or otherwise, that any executor, administrator, guardian, receiver, or fiduciary appointed by any chancery court is derelict in the performance of any duty required of him by law or the orders of the court or chancellor, or is liable to be punished or removed for any cause prescribed by law, then such court or the chancellor in vacation may, on the application of any interested party or of his or its own motion, order a citation for such executor, administrator, guardian, receiver, or other fiduciary, as the case may be, to be issued by the clerk of the court in which such cause or matter is pending, returnable forthwith or at such time and place, in term time or vacation, as may be specified in such order, to appear and show cause why he should not be removed or punished for contempt, either or both, as may be directed in such order. The citation shall be directed to the sheriff of the county of the residence of such fiduciary, if known to the clerk; otherwise, it shall be directed to the sheriff of the county where such matter or cause is pending, and shall be executed without advance payment of fees.

SOURCES: Codes, 1942, § 635; Laws, 1936, ch. 239.

JUDICIAL DECISIONS

- 1. In general.
 - 2. Notice.
1. In general.
An administrator's failure to file sufficiently specific accountings and inventories and his admission that he had spent or lent large sums of funds taken from the estate for which he was unable to account formed a sufficient basis for the chancellor to remove him, under § 91-7-285, as executor of the estate. *Kelly v. Shoemake*, 460 So. 2d 811 (Miss. 1984).
2. Notice.
A conservator is entitled to notice and a hearing prior to his removal. *Jackson v. Jackson*, 732 So. 2d 916 (Miss. 1999).

§ 91-7-287. Publication of process for defaulter.

If the citation be returned unexecuted because such fiduciary cannot be found after diligent search by the sheriff to whom it is directed, then the clerk shall make and file among the papers in the cause an affidavit stating such information as he may have been able to ascertain after diligent inquiry concerning the whereabouts and post office address of such fiduciary. If by such affidavit it shall appear that the whereabouts of such fiduciary is unknown to the clerk or that he is a nonresident of, or absents himself from, this state, then the court or chancellor shall make an order directing the issuance and publication of an alias citation for such fiduciary to appear and show cause why he should not be removed, at a time and place specified therein, not less than thirty days from the date of such order. The sheriff of the county where such matter or cause is pending shall thereupon make publication of such citation by posting a true copy thereof at three public places in his county, one of which shall be at the courthouse, not less than twenty-one days before the return day thereof, and shall make return of the citation showing such publication and the date and places where such copies were posted. If the clerk's affidavit shall show the post office address of such fiduciary, then the clerk shall, at the time of issuing such alias citation for publication, mail postage prepaid a true copy thereof to him at such address and note the fact on his general docket in the same manner and with the same effect as in other like cases. On the return of such alias citation, executed by publication as aforesaid, the court or chancellor shall be as fully empowered to proceed as if such fiduciary had been personally served in this state.

SOURCES: Codes, 1942, § 636; Laws, 1936, ch. 239.

§ 91-7-289. Hearing for derelict fiduciary.

If on the return day it shall appear that the citation has been served in this state, or publication made in the manner required by Section 91-7-287, the court or chancellor may proceed to hear the matter, and may remove or punish such fiduciary, either or both, or make such other order therein as may seem just and proper; or the court or chancellor may continue the matter for further hearing and final determination to such time and place as may be designated in the order of continuance.

SOURCES: Codes, 1942, § 637; Laws, 1936, ch. 239.

§ 91-7-291. Final accounts.

When the estate has been administered by payment of the debts and the collection of the assets, it shall be the duty of the executor or administrator, unless the court or chancellor, on cause shown, shall otherwise order, to make and file a final settlement of the administration by making out and presenting to the court, under oath, his final account, which shall contain a distinct statement of all the balances of the annual accounts, either as debits or credits,

that effect; but the guardian shall first give a bond, with two sufficient sureties residing in this state, in the full value of the ward's personal estate, conditioned that he will qualify as guardian of the ward in the state or country to which he intends removing, and will there present and file in the proper court a complete inventory of his ward's property and effects; and, on failure to comply with the condition, the bond may be put in suit for the benefit of the ward.

SOURCES: Codes, 1857, ch. 60, art. 159; 1871, § 1229; 1880, § 2125; 1892, § 2208; Laws, 1906, § 2425; Hemingway's 1917, § 1986; Laws, 1930, § 1905; Laws, 1942, § 442.

RESEARCH REFERENCES

CJS. 39 C.J.S., Guardian and Ward
§ 271.

§ 93-13-65. Seizure of property about to be unlawfully removed by guardian.

If the court, chancellor, or clerk be satisfied that any guardian is about to remove the property of his ward out of the state without lawful authority, it shall be the duty of the court, chancellor, or clerk to issue a precept to the sheriff of the proper county, commanding him to seize the property about to be removed, and to hold the same in his possession until legally disposed of; and the letters of such guardian may be revoked.

SOURCES: Codes, 1857, ch. 60, art. 145; 1871, § 1213; 1880, § 2101; 1892, § 2199; Laws, 1906, § 2415; Hemingway's 1917, § 1976; Laws, 1930, § 1887; Laws, 1942, § 423.

Cross References — Removal of property from state by executors or administrators, see § 91-7-257.

§ 93-13-67. Annual accounts; guardian's minimum commission.

Except as herein provided, and as provided in Section 93-13-7, every guardian shall, at least once in each year, and oftener if required, exhibit his account, showing the receipts of money on account of his ward, and showing the annual product of the estate under his management, and the sale or other disposition thereof, and showing also each item of his expenditure in the maintenance and education of his ward and in the preservation and management of his estate, supported by legal vouchers. In the event that the account shall be presented by a bank or trust company which is subject to the supervision of the department of bank supervision of the State of Mississippi or of the comptroller of the currency of the United States and such account, or the petition for the approval of same, shall contain a statement under oath by an officer of said bank or trust company showing that the vouchers covering the disbursements in the account presented are on file with the said bank or trust

company, such bank or trust company shall not be required to file vouchers. Provided, however, that said bank or trust company shall produce said vouchers for inspection of any interested party or his or her attorney at any time during legal banking hours at the office of said bank or trust company; and provided, further, that the court on its own motion or on the motion of any interested party may require that said vouchers be produced and inspected at any hearing of any objections to said annual account. And such accounts shall be examined, approved, and allowed by the court in the same way that the accounts of executors and administrators are examined, approved, and allowed. Compliance with the duties required, in this section, of guardian shall be enforced by the same means and in the same manner as is provided in respect to the accounts of executors and administrators.

Provided, however, when the funds and personal property of the ward do not exceed the sum or value of three thousand dollars (\$3,000.00) and there is no prospect of further receipt to come into the hands of the guardian other than interest thereon, or in guardianships in which the only funds on hand or to be received by the guardian are funds paid or to be paid by the department of public welfare for the benefit of the ward, the chancery court or chancellor in vacation, may, for good cause shown, in his discretion and upon being satisfied it is to the best interest and welfare of the ward, authorize the guardian to dispense with further such annual accounts, except such as may be a final account. Furthermore, the chancery court or chancellor in vacation may so dispense with such annual accounts, if the ward's assets consist solely of funds on deposit at any banking corporation, building and loan association or savings and loan association in this state; have been so deposited under order of the court to remain until otherwise ordered; are fully insured; and a certified copy of the order to deposit, properly receipted, furnished the depository. And, if the court, or chancellor in vacation, shall so authorize the discontinuance of such annual accounts, the guardian may, without further order of the court, from time to time pay the court costs and bond premiums owing by such estate or him as such guardian, and, as well, he may likewise pay such emergency obligations as he may have been empowered and allowed to do by necessity except for this section; but, he shall not pay from guardianship funds, any other sums without further order of such court or chancellor without having first obtained order of the court or chancellor to do so. In the event of any emergency expenditure, as aforesaid, for the immediate and necessary welfare of the ward, the same shall at once be reported to the court, or chancellor in vacation, for approval. Furthermore, the court on its own motion or on the motion of any interested party may require the resumption and continuance of annual accounts, hereunder.

At the time of any such annual account, the court, or a judge thereof in vacation, in its discretion, may allow to the guardian a minimum commission of one hundred dollars (\$100.00) per annum for its services, anything in the statutes of this state to the contrary notwithstanding.

SOURCES: Codes, Hutchinson's 1848, ch. 36, art. 1(128); 1857, ch. 60, art. 147; 1871, §§ 1214, 1215; 1880, § 2103; 1892, § 2222; Laws, 1906, § 2441; Heming-

5.00. JUDGMENTS

Rule 5.01. Judgments—Form of Caption

Every Judgment shall show the number and style of the action at the top and have a caption showing the nature thereof.

Rule 5.02. Judgments—Contents and Form

Every Judgment shall adjudicate such facts as to show that the Court has lawful authority to render it. In every action where relief is granted the several items or elements thereof shall be stated in a separate paragraph which shall be numbered consecutively. Every Judgment shall be so drawn as to be definite and certain in all its terms and provisions. In all litigated cases the final Judgment shall tax the costs as the Chancellor may require and direct the issuance of appropriate process for its enforcement. No exception to the action of the Court may be embraced in any Judgment, but the party adversely affected thereby shall be deemed to have duly excepted thereto.

Rule 5.03. Consent Judgments Must be Approved and Signed by Both Counsel

Every consent Judgment must be approved and signed by counsel for all parties to the suit who may be represented by counsel and interested in or affected thereby before being presented to the Chancellor

for his signature. The Court may also require the parties to sign.

Rule 5.04. Judgment Must be Submitted to Opposing Counsel and Chancellor—When

In all litigated actions, the attorney who shall be directed to draw the Judgment shall submit the same to opposing counsel for criticism as to form only, and shall present the same to the Chancellor within ten (10) calendar days after being directed to draw the judgment unless otherwise permitted.

Rule 5.05. Presentation of Court File

Unless excused by the Court, when attorneys personally present to the Court any proposed order, they shall also present the court file for the convenience of the Court.

Rule 5.06. Judgment Must be Delivered to Clerk

As soon as a Judgment has been signed by the Chancellor, it shall be promptly delivered to the Clerk of the proper Court for record in the minute book. Any person to whom any Judgment may be entrusted by the Chancellor for delivery to the Clerk who shall either willfully or negligently fail to promptly deliver it to the Clerk, shall be guilty of a contempt.

6.00. RULES CONCERNING PROBATE MATTERS

Rule 6.01. Attorney Must be Retained

Every fiduciary must, unless he is licensed to practice law, retain an attorney or firm of attorneys to represent, advise and assist him during the whole term of his office, whose compensation will be fixed or approved by the Chancellor. When an attorney has once appeared for such a fiduciary, in any respect, he may withdraw only with the consent of the Chancellor, after notice to the client. However, if he shall be or become negligent or unfaithful, in any respect, he may, with the consent of the Chancellor, be discharged. The practice of employing different attorneys, at the will of the fiduciary will not be tolerated.

Rule 6.02. Fiduciaries and Attorney Must be Diligent

Every fiduciary and his attorney must be diligent in the performance of his duties. They must see to it that publication for creditors is promptly made, that inventories, appraisements, accounts and all other reports and proceedings are made, done, filed and presented within the time required by law, and that the estates of decedents are completed and assets distributed as speedily as may be reasonably possible. In

guardianships and conservatorships an attorney must be faithful to both fiduciary and the ward and if it appears to the attorney that the fiduciary is not properly performing duties required by the law then he shall promptly notify the Court in which the estate is being administered. Failure to observe this rule without just cause shall constitute contempt for which the Chancellor will impose appropriate penalties.

Rule 6.03. Statement Appended to Annual Accounts

Every fiduciary shall append to each annual account, as a part thereof, a list or statement of all assets, real and personal, of the estate then in his hands or under his control. If any part thereof shall consist of money, bonds or other securities negotiable by delivery, then such statement shall also show the name of the bank where the same is deposited or kept. A certificate signed under oath by an officer of the bank that such money and bond or other securities are then on deposit or kept in such bank shall be attached. In case any of such assets shall consist of loans made by him or his predecessor in office, then such statement shall show to whom and when such loan was

made, the amount remaining unpaid, how secured, whether all taxes have been paid on the property mortgaged or pledged as security for loan, and whether or not in his opinion the security is sufficient.

Rule 6.04. What Vouchers Must Show

Every disbursement shown by an account of fiduciary must be supported by proper vouchers, which shall conform to the requirements of Miss.Code Ann. (1972) Section 91-7-279 and Miss.Code Ann. Section 93-13-71. Every such voucher shall consist of a receipt or cancelled bank check showing to whom and for what purpose the money was paid. All vouchers for claims paid which arose during the lifetime of a decedent or the sanity of a person of unsound mind shall show that the claim was properly probated, allowed and registered. This rule is modified as to banks or trust companies which are subject to the supervision of the Department of Bank Supervision of the State of Mississippi, or The Comptroller of the Currency of the United States to the extent they are covered by Miss.Code Ann. (1972) Section 91-7-277.

Rule 6.05. Disbursements and Receipts Annual and Final Accounts

Where disbursements are shown on an annual or final account there shall be included therewith the voucher number, the date of the disbursement, the name of the payee, the purpose of the disbursement and the date of any court order authorizing such disbursement.

Where receipts are shown on such accounts there shall be included the date of the receipt, the name of the payor and on what account payment is made.

Rule 6.06. Lost Vouchers—How Substituted

In case of the loss or destruction of any original voucher, the fiduciary may procure and present for allowance a duplicate or a receipt from the person or corporation to whom the money was paid or the property was delivered, which shall show on its face that it is a duplicate of the original voucher so lost or destroyed. The Chancellor may, if the proof be sufficient, allow the same as though the original had been produced.

Rule 6.07. Claims Arising After Death of Decedent

Claims arising after the death of a decedent, such as funeral bills, expenditures for monuments, attorney's fees, and the like must be approved by the Chancellor before payment. Otherwise, payment thereof will be at the risk of subsequent disapproval by the Chancellor as to the propriety or reasonableness thereof.

Rule 6.08. Allowance for Support of Ward

Every petition for an allowance for the support of a ward shall show the amount of his current estate, the estimated amount of his monthly or yearly income,

and the amount of the previous allowance. Where the ward is a minor, any request of a guardian to expend funds of the ward for necessities which are the responsibility of the parent shall not be considered unless the guardian, under oath, justifies the reason for such proposed expenditures.

Rule 6.09. Petitions for Authority to Make Loans or Investments

Every petition for authority to loan or invest the funds of a ward shall show the amount to be loaned or invested, the kind and description of the security offered or investment proposed and the value thereof. In case of a loan, to whom and the time for which it is to be made, and the rate of interest it is to bear. In all cases where a loan is proposed, the affidavits of two or more credible persons touching the value of the security offered must be attached to the petition filed with the papers in the action, or witnesses produced before the Chancellor.

Rule 6.10. Petitions for Authority to Compromise Claims for Wrongful Death or Injury

Every petition for authority to compromise and settle a claim for wrongful death or injury shall set forth the facts in relation thereto and the reason for such compromise and settlement and the amount thereof. The material witnesses concerning the injury or death and the damages resulting therefrom shall be produced before the Chancellor for examination. Where counsel representing the petition has investigated the matter and advised settlement, he shall so appear and give testimony touching the result of his investigation.

On "future payment" or "structured settlement" cases, a certified copy of any insurance policy or other security guaranteeing payment shall be made a part of the court file within ninety (90) days from the date of the entry of the judgment or decree authorizing the settlement, unless good cause is shown.

Rule 6.11. Petitions for Commissions

Every petition by a fiduciary for the allowance of commissions, or for compensation for extra services and expenses, shall show the total amount of the estate coming into his hands, the total amount disbursed, the balance on hand, the nature and extent of the service rendered and expense incurred by him, and the total amount previously allowed to him on account thereof. Fees for fiduciaries and attorneys shall not be based on the value of any real property.

Rule 6.12. Petitions for Allowance of Attorney's Fees

Every petition by a fiduciary or attorney for the allowance of attorney's fees for services rendered shall set forth the same facts as required in Rule 6.11, touching his compensation, and if so, the nature and

from the four corners of the order itself exactly what conduct was enjoined.")

Rule 65(e) is a reaffirmation that the injunctive powers Mississippi courts have had prior to the rule remains intact, being neither abridged nor enlarged by the rule. See Miss. Code Ann. § 9-9-23 (county court may not issue writs of injunction, but may, when expressly directed in writing by chancery court or circuit court, hear application for injunctive relief).

For detailed discussions of Federal Rule 65, after which MRCP 65 was patterned, see 11 Wright & Miller, *supra* §§ 2941-2962; 7 Moore's Federal Practice ¶¶ 65.01-21 (1972).

Rule 65.1. Security: Proceedings Against Sureties

Whenever these rules require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting the liability on the bond or undertaking may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

Comment

Each surety, by entering into a bond, stipulation, or other undertaking required or permitted by these rules, submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting liability on the bond or undertaking may be served; hence, a simple motion practice, rather than an independent action, is provided for the enforcement of the surety's liability. The motion and such notice thereof as the court prescribes may be served on the clerk of the court, who has a duty forthwith to mail copies to the surety if his address is known.

Illustrative of situations in which the giving of security might be permitted as required by the rules are the following:

- (1) as a condition to the various provisions for a stay of proceedings to enforce a judgment; MRCP 62(c), (h);
- (2) as a condition to the granting of a temporary restraining order or preliminary injunction; MRCP 65;
- (3) for security for costs; MRCP 3(b).

See also 7 Moore's Federal Practice ¶¶ 65.1.01-05 (1974); 11 Wright & Miller, *Federal Practice and Procedure, Civil* §§ 2971-2974 (1973).

Rule 66. Receivers

An action wherein a receiver has been appointed shall not be dismissed except by order of the court. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

Comment

Rule 66 is a limitation on parties' authority to dismiss civil actions without leave of court. Cf. MRCP 41. When litigation has reached the point that appointment of a receiver is necessitated and one is appointed, then the court has taken such an active involvement in the action that it must, in the interest of guaranteeing equal security for all parties, ensure that the action is not concluded until the object of the receivership is adjudicated.

With the exception of limiting parties' rights to dismiss without leave of court, Rule 66 provides that proceedings involving receivers are adjudicated in accordance with the provisions of the Mississippi Rules of Civil Procedure.

Procedurally, Rule 66 does not depart from prior Mississippi receivership practice. See Miss. Code Ann. §§ 11-5-151 through -167 (1972); V. Griffith, *Mississippi Chancery Practice* §§ 466-482 (2d ed. 1950).

Rule 67. Deposit in Court

In any action in which any part of the relief sought is judgment for a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing.

Where money is paid into court to abide the result of any legal proceeding, the judge may order it deposited at interest in a federally insured bank or savings and loan association authorized to receive public funds, to the credit of the court in the action or proceeding in which the money was paid. The money so deposited plus any interest shall be paid only upon the check of the clerk of the court, annexed with its certified order for the payment, and in favor of the person to whom the order directs the payment to be made.

Comment

Rule 67 applies in an action "in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other things capable of delivery." A party may deposit with the court all or any part of the sum or thing, but must give notice to every other party and must obtain leave of court to make the deposit.

The purpose of the deposit is to relieve the depositor of responsibility for a fund in dispute. It is useful in cases of interpleader and of tender of an undisputed sum. However, this procedural device does not institute a civil action joining the claimants of the disputed res, as does an interpleader action. Cf. MRCP 22; see also V. Griffith, *Mississippi Chancery Practice*, §§ 522-526 (2d ed. 1950) (tender and payment into court).

Rule 68. Offer of Judgment

At any time more than fifteen days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within ten days after the service of the offer