Defendants tried to argue that financial statements were provided to Mr. Marcantel and were tantamount to an accounting. Yet no financial statement for 2001 was produced which would have shown the Dation (Marcantel pg 60-62) and the financial statements, as shown, conflicted with the numbers on Bell's ultimate accounting. Mr. Marcantel also pointed out that the balance sheets failed to list assets of the trust such as the co-op stock and Nedia Bell note in violation of LSA 9:2088 which requires a listing of *"all items of Trust property."* (Marcantel pg 58-59 and financial statements PE-47) Ms. Martin agreed. (Martin pg 98-99) Though the CPA said she distributed financials to Bell (Martin pg 100) Bell never sent the financials to the beneficiaries.

To this day Bell has not accounted for her expenditures and the necessity for over $100,000.00 of expenses CPA Rolfes found questionable and undocumented.

2. **<u>Bell's Transaction Left The Trust With An Unreasonably Small Capital And Unable To Pay Its Debts.</u>**

Jeff omitted

The Adversary complaint asserts claims under 11 USC 548 (a)(1)(b)(i)(II) and (III) as well as under 11 USC 548 (a)(1)(b)(ii)(I) and (II). Though such claims do not seem to be widely reported, they are viable claims and do not depend on solvency or insolvency. 4 Collier on Bankruptcy 548.04 (15th ed. 1991). As stated in 8 Norton Bankr. L. and Practice 2d. Sec. 58:5 (2003), in a claim under 11 USC 548(a)(1)(b)(ii)(I) and (II), *"the Trustee does not have to show that the debtor was insolvent when the transaction took place, that the debtor entered into the transaction with the intent to hinder, delay or defraud its creditors, or that any creditors were in fact defrauded by the transaction. Whether the debtor is left with unreasonably small capital*

(i) omitted insolvency

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EXHIBIT 12