

ACKERMANN 5TH CIRCUIT BRIEF

The reversal of the Dation should be upheld because by itself it was a breach of Bell's duty of loyalty and disclosure and her duty to manage the Trust solely in the interests of the beneficiaries. In addition, Bell was not entitled to \$266,000.00 of compensation because her time was falsely recorded or even if accepted as true, was not reasonable or for the benefit of the Trust or beneficiaries. Furthermore Bell's numerous other breaches of other Trustee duties justified a major reduction in compensation, if not complete rejection of compensation. This results in a minimal value if any, received by the Trust in debt reduction, in return for the \$260,000.00+ of assets Bell took via the Dation making the transaction without sufficient consideration and fraudulent.

Appellee also asks that this court uphold the judgment in an amount equal to the funds of the Trust that were found to have been spent by Bell on inappropriate expenses. Said sums were quantified by Lou Rolfes, CPA at PE-50 as \$162,141.96.

Appellee asks the court to uphold judgment in the amount of the oil and gas income and farming income that Bell received after the Dation. (PE-24)

Compound interest at the legal rate was also properly awarded, accruing from the date of the diversions. See, *In matter of Donald E. Bradford*, 524 So.2d. 1213, 1220-1221 (La App Ct. 1st 198) on rehearing, citing to Bogert, Trusts and Trustees (2d ed rev. 198) §863.

Respectfully submitted:



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Known fraudulent misrepresentation
to obtain judgments by fraud
that prospered them personally
* See Rolfes testimony