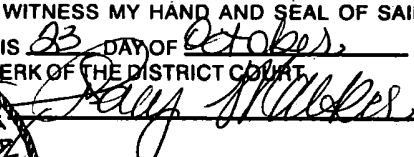


The Order of the Court is stated below:

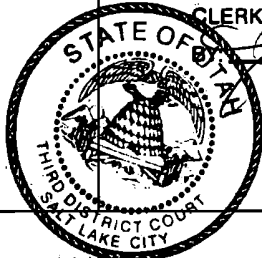
Dated: April 05, 2020  
03:32:15 PM

/s/ KARA PETTIT  
District Court Judge



| IN THE THIRD JUDICIAL DISTRICT COURT                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| IN AND FOR SALT LAKE COUNTY, STATE OF UTAH                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| In the matter of THE AUDIE G. LEVENTHAL IRREVOCABLE TRUST                                                                                                                                                                                                                                                                                                                             | <b>AMENDED FINAL JUDGMENT</b><br><br>Case No. 153900945<br><br>Judge Kara L. Pettit                                                                                                                                                                                                                                                                                                                                                                                                               |
| SKOUBYE NIELSON & JOHANSEN, LLC,<br><br>Plaintiff in Intervention,<br><br>v.<br><br>THE AUDIE G. LEVENTHAL IRREVOCABLE TRUST, AUDIE G. LEVENTHAL, individually and as Investment Trustee of the Audie G. Leventhal Irrevocable Trust, NATE SPONENBURGH as Benefits Trustee and Administrative Trustee of THE AUDIE G. LEVENTHAL IRREVOCABLE TRUST,<br><br>Defendants in Intervention. | STATE OF UTAH )<br>COUNTY OF SALT LAKE ) ss.<br>I, THE UNDERSIGNED, CLERK OF THE DISTRICT COURT OF SALT LAKE COUNTY, UTAH, DO HEREBY CERTIFY THAT THE ANNEXED AND FOREGOING IS A TRUE AND FULL COPY OF AN ORIGINAL DOCUMENT ON FILE IN MY OFFICE AS SUCH CLERK.<br>WITNESS MY HAND AND SEAL OF SAID COURT<br>THIS <u>03</u> DAY OF <u>October</u> , 20 <u>20</u><br>Clerk of the District Court<br><br>DEPUTY |

13445582  
 10/30/2020 11:56 AM #40-00  
 Book - 11050 Pg - 8899-8906  
 RASHELLE HOBBBS  
 REDORDER, SALT LAKE COUNTY, UTAH  
 CARSON HENNINGER  
 222 S MAIN ST. M 5TH FLOOR  
 SLC UT 84101  
 BY: ARA, DEPUTY - M 8 P.



The Court entered a judgment on 11/12/18 as to the claims between Leventhal and Vandersteen. Earlier on that same date, the Court allowed Goodsell & Olsen and Skoubye, Nielsen & Johnsen, LLC to intervene to file complaints in intervention. All of the complaints in intervention have now been adjudicated and all of the motions for attorneys fees have been ruled upon. Therefore, all claims and motions for attorney fees having now been fully adjudicated in this action, the Court enters this Amended Final Judgment. (The amendments to the 11/12/18 judgment are underlined.)

Pursuant to Utah Rules of Civil Procedure 54 and 58A, and based upon the *Findings of Fact and Conclusions of Law (9/3/18)*, *Order on Leventhal's Motion to Dismiss Goodsell's First Amended Complaint in Intervention and Goodsell's Counter-motions to Declare Enforceability of Contracts and to Bifurcate the Trial (6/5/19)*, *Findings of Fact and Conclusions of Law (2/5/20)*, and *Ruling on SNJ Motion for Award of Fees/Costs (4/4/20)* previously entered, the Court, for good cause appearing, hereby ORDERS, ADJUDGES, AND DECREES as follows:

1. Judgment is entered in favor of Defendant Audie G. Leventhal ("Audie") on the following Causes of Action asserted in the *Amended Petition for Removal of Trustee Audie G. Leventhal and Complaint (6/8/16)* (the "Amended Complaint") filed by Plaintiff June Vandersteen ("June") on behalf of The Audie G. Leventhal Irrevocable Trust (the "Trust"): Fifth (remedies for breach of trust), in part<sup>1</sup>, Sixth (removal of Audie as Investment Trustee), and Seventh (defamation per se).

2. Judgment is also entered in favor of Audie on the following Claims for Relief asserted in his *Third Amended Counter-Petition and Counterclaim (8/22/17)* (the "Amended Counterclaim"): First (removal and replacement of Trust Protector) as conformed to the evidence at trial, Second (removal and replacement of June as Benefits Trustee), in part as set forth in the Court's Findings and Conclusions, Fourteenth (instructions to Trustees and declaratory relief), in part<sup>2</sup>, Seventeenth (declaratory relief that Audie has no duty to account), and Eighteenth (declaratory relief that Audie is indemnified).

---

<sup>1</sup> The Court ordered Audie to redress his breach of trust by paying money or restoring property in the amount of \$95,667.90.

<sup>2</sup> The Court ordered that Audie is entitled distributions of principal and income for the years 2015 through 2018 in the amount of \$3,494,000.00.

3. Audie remains Investment Trustee of the Trust with all rights, powers, privileges, and duties as provided by The Audie G. Leventhal Irrevocable Trust Agreement, May 12, 2010 (Trial Exhibit 1A) (the “Trust Agreement”) and by law.

4. Pursuant to Wyo. Stat. § 4-10-706(b)(ii) and (iii), June is removed as Benefits Trustee of the Trust and Billie Crocker is removed as Trust Protector. The Court appointed replacement trustees pursuant to the Order of Appointment dated 10/31/18.

5. Pursuant to Section 3.1 of the Trust Agreement, Audie, as Grantor, is entitled to receive all distributions from the Trust that were authorized by Nate Sponenburgh, Administrative Trustee, for the years 2015 through 2018 in the amount of \$3,494,000.00.

6. Judgment is entered in favor June, on behalf of the Trust, on the Second (breach of fiduciary duty/breach of trust), Fourth (conversion), and Fifth (remedies for breach of trust) Causes of Action, in part<sup>3</sup>, asserted in the Amended Complaint in the amount of \$95,667.90; however, judgment is entered in favor of Audie on all other claims and amounts related to those causes of action. Audie may repay this amount to the Trust by reducing it from the \$3,494,000.00 in distributions that he is entitled to receive.

7. Pursuant to subsection 8.7(H)(vi) of the Trust Agreement, Section 4.1 (the “Power of Appointment”) is terminated by the amendment of Billie Crocker; however, the Court instructs the replacement Trust Protector to review and revisit this termination and to determine whether to reinstate the Power of Appointment according to the intent of the Grantor, Audie.

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<sup>3</sup> Footnote 1, *supra*.

8. All other causes of action, claims for relief, and counterclaims asserted in and relating to the Amended Complaint and the Amended Counterclaim, not previously adjudicated by the Court's prior orders in the case, are dismissed with prejudice. This judgment adjudicates all the remaining claims, rights and liabilities of all the parties ~~except for the pending claims for attorney fees.~~

9. Pursuant to Section 8.7(C) of the Trust and this Court's Order dated 1/29/18, Audie is entitled to indemnity and reimbursement by the Trust and payment of his reasonable expenses, including attorney fees and costs, excepting only those associated with the judgment obtained in the amount above of \$95,667.90.

10. Pursuant to subsection 8.5(I) of the Trust Agreement, June is entitled to reasonable attorney fees and costs from the Trust.

11. The Court ~~will~~ has determined the amounts of reasonable attorney fees and costs to be awarded, and includes those awards in this amended judgment as follows:

A. Audie Leventhal, as Investment Trustee of the Audie G. Leventhal Irrevocable Trust, is awarded \$238,359.18 in attorney fees and \$8,723.69 in costs, for a total of \$247,082.87 against the Audie G. Leventhal Irrevocable Trust.

B. June Vandersteen, former Benefits Trustee of the Audie G. Leventhal Irrevocable Trust, is awarded \$247,115.50 in attorney fees and \$7,016.38 in costs, for a total of \$254,131.88 against the Audie G. Leventhal Irrevocable Trust.

12. All claims set forth in Goodsell's First Amended Complaint in Intervention are dismissed without prejudice.

13. Judgment is entered in favor of Skoubye, Nielsen & Johansen, LLC ("SNJ") against Audie Leventhal, individually and in his capacity as Investment Trustee and/or Grantor of the Audie G. Leventhal Irrevocable Trust on the First Cause of Action for Breach of Contract in SNJ's First Amended Complaint In Intervention in the amount of \$60,816.62. The Court also awards \$656.90 for costs incurred by SNJ against Leventhal, individually and in his capacity as Investment Trustee and/or Grantor.

14. SNJ has an enforceable lien for the balance of compensation due from Leventhal, individually and in his capacity as Investment Trustee and/or Grantor of the Trust, on any money or property owned by the client that is the subject of or connected with work performed for the client.

15. The remainder of SNJ's claims are dismissed with prejudice, unless otherwise ruled upon in the Findings of Fact and Conclusions of Law entered 2/5/20.

The judgment shall accrue post-judgment interest at the statutory rate of 3.53% per annum from the date of entry of this judgment until paid in full.

**\*\*ENTERED BY THE COURT EFFECTIVE AS OF THE DATE OF THE COURT'S SIGNATURE AFFIXED TO THE FIRST PAGE OF THIS DOCUMENT. \*\***

**Judgment Information Statement**

(Utah Code 78B-5-201.) (This document is not filed with the court. It is filed with the county recorder.)

My name is Brian D. Shapiro, Trustee for the Audie Leventhal Chapter 7 Bankruptcy Estate, and I am the judgment creditor in the following court case:

|                                                                         |                                                                                     |
|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Case name<br>(Example: Party v. Party)                                  | Skoubye Nielson & Johansen, LLC v. The Audie G. Leventhal Irrevocable Trust, et al. |
| Case number                                                             | 153900945                                                                           |
| Court name and county<br>(Example: Third District Court, Tooele County) | Third District Court, Salt Lake County                                              |

I provide the following information in compliance with Utah Code Section 78B-5-201.

1. The correct name of the judgment debtor is

The Audie G. Leventhal Irrevocable Trust

2. The correct last known address of the judgment debtor is:

N/A

3. The address at which the judgment debtor received service of process is:

Nathan Sponenburgh, Trustee, 318 9<sup>th</sup> Street Evanston, WY 82930; Western Tax Institute, Trust Protector, c/o C. David Clauss PO Box 1172 Jackson, WY 83001.

4. The judgment debtor is (choose one):

a natural person, and (if known)

|                                            |  |
|--------------------------------------------|--|
| Last four digits of Social Security Number |  |
| Date of birth                              |  |
| Driver license number                      |  |

is not a natural person (For example, a business.).

5. The name of the judgment creditor is: Brian D. Shapiro, Trustee for the Audie Leventhal Chapter 7 Bankruptcy Estate

6. The amount of the judgment is: \$ 3,645,414.97 plus interest (see attached Exhibit 1)
7. The judgment was entered on: April 5, 2020 (date).
8. The judgment (Choose one.):  
 has been stayed and the stay expires on \_\_\_\_\_ (date).  
 has not been stayed.
9. The judgment creditor has reviewed their records, the records of their attorney (if there is one), and the records of the court in which the judgment was entered. Any information required by law but not provided by this statement is unknown and unavailable. (Utah Code 78B-5-201.)


**Plaintiff/Petitioner or Defendant/Respondent**

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

\_\_\_\_\_  
 Date Signature ▶ \_\_\_\_\_  
 Printed Name \_\_\_\_\_

**Attorney or Licensed Paralegal Practitioner of record (if applicable)**

10/29/2020  
 Date Signature ▶   
 Printed Name Peggy Hunt

# **Exhibit 1**

## **April 5, 2020 Judgment Calculation**

**Principal Judgment:** The April 5, 2020 Judgment was awarded in favor of Audie Leventhal in the amount of \$3,494,000.00 in addition to \$247,082.87 in attorney fees and costs. The Judgment is subject to offset in the amount of \$95,667.90 as stated in the Judgment. Accordingly, on April 5, 2020, Audie Leventhal was entitled to net \$3,645,414.97.

**Post-Judgment Interest:** The Judgement accrues post-judgment interest at the statutory rate of 3.53% per annum. This breaks down to \$352.56 per day. As of October 15, 2020, \$68,043.42 interest on the Judgement has accrued.

**Total:** As of October 15, 2020, Audie Leventhal was entitled to at least \$3,713,458.39 from the Audie G. Leventhal Irrevocable Trust. This amount is subject to increase pursuant to the post-judgment interest noted above.