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## EIGHTH JUDICIAL DISTRICT COURT CLARK COUNTY, NEVADA

JASON HANSON, an individual;

Plaintiff.

VS.

FRANCES-ANN FINE, an individual; JARED E. SHAFER, an individual; PROFESSIONAL FIDUCIARY SERVICES OF NEVADA, INC., a Nevada corporation; DARA GOLDSMITH, an individual; ELYSE TYRELL, an individual; JOHN CAHILL, in his individual capacity as Public Administrator of Clark County; DOES I through X; and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: <u>A-17-758506-C</u>

Dept. No.: \_\_\_\_\_\_28

#### FIRST AMENDED COMPLAINT

#### For

- 1. Declaratory Relief
- 2. Declaratory Relief and Double Damages pursuant to NRS §159.315
- 3. Breach of Fiduciary Duties
- 4. Conversion
- 5. Civil RICO Fraud
- 6. Negligence
- 7. Unjust Enrichment
- 8. Violation of NRS *§41.1395*

COMES NOW, Plaintiff JASON HANSON, by and through his counsel of record, Jacob L. Hafter, Esq. of the law firm HAFTERLAW, to complain, aver and allege as follows against FRANCES-ANN FINE, an individual, JARED E. SHAFER, an individual, PROFESSIONAL FIDUCIARY SERVICES OF NEVADA, INC., a Nevada corporation, DARA GOLDSMITH, an individual, ELYSE TYRELL, an individual, and JOHN CAHILL, in his individual capacity

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as Public Administrator of Clark County, in addition to any unknown defendants, the following causes of action:

#### PRELIMINARY STATEMENT

- 1. Defendants are well established professionals who make their living, in part or in whole, as a result of Nevada's guardianship and probate systems.
- 2. Defendants have used their roles in the guardianship and probate systems to make a living at the expense and to the detriment of the parties that are to be protected by these systems.
- 3. This lawsuit seeks to address the failures of Nevada's probate and guardianship systems in fairly respecting and protecting the interests of Plaintiff, **JASON HANSON**.
- 4. Defendants used their roles in the guardianship and probate systems to deprive Mr. Hanson of the limited resources which were left to him by his father and grandmother.
- 5. As a result of Defendants' actions Mr. Hanson has been deprived of thousands of dollars.

#### **PARTIES**

- 6. At all times pertinent hereto, Plaintiff JASON HANSON, is an individual who resides in Clark County, Nevada.
- 7. Upon information and belief, for all relevant times herein, Defendant FRANCES-ANN FINE, is an individual who is an attorney who is licensed to practice law in Nevada and who maintained a residence in Clark County, Nevada.
- 8. Upon information and belief, for all relevant times herein, Defendant **JARED E. SHAFER**, is an individual who maintained a residence in Clark County, Nevada.
- 9. Upon information and belief, for all relevant times herein, Defendant PROFESSIONAL FIDUCIARY SERVICES OF NEVADA, INC. ("PFSN"), was a Nevada corporation.

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- 10. Upon information and belief, for all relevant times herein, Defendant **DARA GOLDSMITH**, is an individual who is an attorney who is licensed to practice law in Nevada and who maintained a residence in Clark County, Nevada.
- 11. Upon information and belief, **JOHN CAHILL** is an individual who served in the capacity of PUBLIC ADMINISTRATOR for Clark County, Nevada, and maintained a residence in Clark County, Nevada.
- 12. Upon information and belief, each of the defendants sued herein as DOES I through X, inclusive, is responsible in some manner for the events and happenings herein referred to, which thereby proximately caused the injuries and damages to Plaintiff as alleged herein; that when the true names and capacities of such defendants become known, Plaintiff will ask leave of this Court to amend this Complaint to insert the true names, identities and capacities together with proper charges and allegations.
- 13. Upon information and belief, each of the defendants sued herein as ROE CORPORATIONS I through X, inclusive, is responsible in some manner for the events and happenings herein referred to, which thereby proximately caused the injuries and damages to Plaintiff as alleged herein; that when the true names and capacities of such defendants become known, Plaintiff will ask leave of this Court to amend this Complaint to insert the true names, identities and capacities together with proper charges and allegations.

#### **JURISDICTION AND VENUE**

- 14. All of the acts complained of herein occurred in Clark County, Nevada.
- 15. This Court has subject matter jurisdiction pursuant to NRS §3.220 and Nevada Constitution, Art. IV, §6.
  - 16. This Court is the proper venue pursuant to NRS § 13.040.
- 17. Where applicable, all matters set forth herein are incorporated by reference in the various causes of action which follow.

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### 6851 W. Charleston Boulevard Las Vegas, Nevada 89117 (702) 405-6700 Telephone (702) 685-4184 Facsimile

#### **GENERAL ALLEGATIONS**

- 18. Mr. Hanson is an individual who was born with cerebral palsy.
- 19. Cerebral palsy is an umbrella term that refers to a group of disorders affecting a person's ability to move.
- 20. Cerebral palsy affects people in different ways and can affect body movement, muscle control, muscle coordination, muscle tone, reflex, posture and balance.
- 21. Although cerebral palsy is a permanent life-long condition, some of these signs of cerebral palsy can improve or worsen over time.
- 22. While people with cerebral palsy may have difficulty communicating, cerebral palsy does not decrease or inhibit one's mental capacity or mental abilities.

#### The Guardianship

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- 23. On or about April 4, 2006, the Honorable William Voy, appointed Defendant Frances-Ann Fine, Esq., as Guardian Ad Litem, on Mr. Hanson's behalf, in a guardianship matter, Case Number J097869.
- 24. On or about April 25, 2006, Defendant Fine filed a Petition for Appointment of Frances-Ann Fine as temporary guardian in a case assigned the number G29271. ("Guardianship Case").
- 25. In that Petition, Defendant Fine stated that Mr. Hanson was a ward of the Court as a result of his mother's admission to various crimes in an Amended Petition, and his father's plea of no contest to various criminal allegations.
- 26. Defendant Fine further stated in that Petition that Mr. Hanson was "the recipient of a trust set up by his paternal grandmother" and that she will "need access to the account number of said trust so that the same can be transferred for [Mr. Hanson]'s behalf to a trust account with [Defendant Fine] as the signator thereon."
- 27. Defendant Fine further stated that she "will seek Court approval for all funds to be used for the benefit of [Mr. Hanson]."

FIRST AMENDED COMPLAINT - 4

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- 28. Defendant Fine further stated that she was "competent and capable of acting as Guardian of the estate of JASON HANSON."
- 29. On January 22, 2007, Defendant Fine then filed an Amended Petition for Appointment of herself as Guardian of Mr. Hanson in the Guardianship Case.
- 30. In that Amended Petition, she noted that "at the time of hearing in the [concomitant] Juvenile Court case, to wit: J299782, [Mr. Hanson] rejected the appointment of [Defendant Fine] to be Guardian of his Estate, and instead, the Honorable Gerald Hardcastle, appointed [her] to be a Court Appointed Special Advocate (CASA). This was done to enable [her] to obtain the necessary information regarding the monies held for [Mr. Hanson] in an educational trust."
- 31. Defendant Fine further noted that her appointment as CASA occurred on July 20, 2006.
- 32. Defendant Fine further noted that she "investigated the trust for [Mr. Hanson] set up by his paternal grandmother, and as [Mr. Hanson]'s guardian, [she] may access said account in order to accommodate the needs of [Mr. Hanson]."
- 33. Defendant Fine further stated that "the trust can be controlled for [Mr. Hanson's] use, with [Defendant Fine] as the signator thereon."
- 34. Defendant Fine further stated that she was "competent and capable of acting as Guardian of the estate of JASON HANSON."
- 35. Defendant Fine further stated that the "guardianship is necessary to ensure that these funds are available to assist JASON HANSON in his endeavor for higher education, if same is necessary."
- 36. On February 13, 2007, an order was entered in the Guardianship Case appointing Defendant Fine guardian, based on her January 22, 2007, Amended Petition.\
- 37. On September 20, 2007, an order was entered in the Guardianship Case "for the funding and execution of the Jason Hanson supplemental needs trust." (JHSNT-I) This order was entered as a result of Defendant Fine's Petition for Authorization to Fund and Execute Trust for

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Jason Hanson's benefit, filed September 14, 2007. There is no copy of this Petition in the records transferred to this office.

- 38. Pursuant to Exhibit "A" to the September 20, 2007, Order, the following were the terms of the JHSNT-I:
  - JASON HANSON is the primary beneficiary. a.
  - b. The trust was irrevocable.
- Charles Schwab Account Number 4096-4756 was listed as the sole asset c. in the trust.
  - 39. In that September 20, 2007 Order, Defendant Fine was required to fund the JHSNT-I.
  - 40. On September 21, 2007, Jason Hanson turned 18.
- 41. There is no evidence that the assets from the Charles Schwab Account Number 4096-4756 were ever conveyed to the JHSNT-I.
- 42. There is no evidence that Defendant Fine ever safeguarded Mr. Hanson's assets which were to be included in the JHSNT-I.
- 43. On September 30, 2008, Dara Goldsmith, Esq., filed a Petition for Appointment of Administrator for Issuance of Letters of Administration and for General Administration of Gerhard Hanson's estate, case number 08-P-064097-E ("Estate Case").
- 44. In that Petition, it is stated that John Cahill, as public administrator, "was nominated by Jason Hanson, the sole heir of [Gerhard Hanson]."
- 45. On October 17, 2008, the Court in the Estate Case issued Letters of Administration, naming Defendant Cahill the Administrator of Gerhard Hanson's estate.
- 46. Within a week of the Court in the Estate Case granting Defendant Cahill's June 12, 2009, Ex Parte Application to proceed without an appraisal of the single asset of the estate, Jared Shafer, of PFSN, on June 29, 2009, filed a Petition to Confirm Successor Trustee in the Guardianship Case.
- 47. In that June 29, 2009, Petition, Mr. Shafer stated that on September 21, 2007, the JHSNT-I "was established, as prepared by Dara J. Goldsmith, Esq."

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48. T	he June 29	9, 2009, F	Petition	furth	er sta	ates that	the "Tru	st Agreer	ment wa	ıs ma	de and
entered into by a	and between	en Jason	Hanso	n, by	and	betweer	r Frances	Ann Fir	ne, Gua	rdian	of the
Estate of Jason	Hanson,	with an	order	from	the	Eighth	Judicial	District	Court,	and	Susar
Rousselle, as tru	stee."										

- 49. The June 29, 2009, Petition further documents how Ms. Rousselle "moved out of the State of Nevada and is not interested in being the Trustee anymore." There is no mention of the date she moved out of state in the Petition, or the concerning circumstances of her departure.
- 50. The June 29, 2009, Petition further states that "Jason Hanson's schooling expenses are paid by [Ms. Rousselle] out of the Trust and the payments will not continue without a Successor Trustee."
- 51. Mr. Shafer's June 29, 2009, Petition expressly states that the Court expressly retained jurisdiction for the JHSNT-I to appoint a successor trustee, and that Mr. Shafer's application was expressly based on that provision in Article 5 of the JHSNT-I document.
- 52. On July 16, 2009, an order confirming Mr. Shafer's appointment (where he was listed as "Jared Shafer, of Professional Fiduciary Services of Nevada, Inc.") as successor trustee was entered into the Court's records in the Guardianship Case.
- 53. On November 4, 2013, Defendant Goldsmith filed a First Account, Report of Trustee and Petition for Fees with the Court in the Guardianship Case. The accounting is silent about the Charles Schwab account. The accounting does not show that Defendant Fine funded the JHSNT-I. The Accounting includes Exhibit C, Billing Ledger. The Billing Ledger was addressed to Defendant Fine as Guardian.
- 54. On December 12, 2013, the Court entered an order approving the First Account, Report of Trustee and Petition for Fees in the Guardianship Case.
- 55. On January 2, 2014, the Court entered an amended order in the Guardianship Case, noting that "an oral objection was heard as to Goldsmith & Guymon, PC's fees at the time of the December 11, 2013, hearing; and therefore, the issue of fees will be heard on February 5, 2014." The order further notes that any objections to the accounting need to be filed in writing "in advance of the hearing."

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- 56. There is no indication that Mr. Hanson was provided a copy of this order.
- 57. There is also no indication that Mr. Hanson was ever provided counsel through which his interests could be protected.
- 58. At this point, pursuant to the Court's records, Defendant Fine was still, officially, Mr. Hanson's Court-Appointed Guardian.
- 59. There is no evidence that she took any of the steps to terminate and wind up the guardianship, as set forth in NRS §§159.1905 to 159.199.
- 60. On January 15, 2014, the Court entered an order in the Guardianship Case appointing Defendant Tyrell, as Successor Trustee to the JHSNT-II. This was the first time that the JHSNT-II was mentioned in any papers filed in the Guardianship Case (which have been made available to this office).
- 61. On February 11, 2014, an order was entered by the Court in the Guardianship Case approving the attorneys fees payment to Goldsmith & Guymon, PC.
- 62. This order notes that the oral objection was made in December, 2013, by Jason Hanson.
- 63. This order further notes that the Court gave Mr. Hanson notice that his objections need to be filed in writing, but that he failed to submit anything in writing.
- 64. On January 15, 2015, the Court entered an order in the Guardianship Case closing the case.
- 65. In that order, the Court stated that the General Letters of Guardianship issued to Defendant Fine are thereby revoked.
- 66. Notice of Entry of this Order was sent to various parties on or about January 12, 2015, by Linda Sisson, Guardianship Compliance Officer.
- 67. On February 10, 2015, a Citation to Appear and Show Cause was issued in the Guardianship Case to various people, including all of the Defendants, "to show cause, if any, why the Court should not vacate all orders regarding the guardianship and/or the Jason Hanson Supplemental Needs Trust entered after the 21st day of September, 2007, the date Jason Hanson turned age of majority, due to lack of subject matter jurisdiction."

- 68. On March 12, 2015, the Court entered an order in the Guardianship Case vacating all post September 21, 2007, court orders.
- 69. By vacating all prior court orders, any authority which any of the defendants in this case had to act was also vacated.

#### The Estate of Gerhard Hanson

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- 70. On July 27, 2008, Gerhard Hanson, Mr. Hanson's father, died intestate in Clark County, Nevada.
- 71. On September 30, 2008, Dara Goldsmith, Esq., filed a Petition for Appointment of Administrator for Issuance of Letters of Administration and for General Administration of Gerhard Hanson's estate, case number 08-P-064097-E ("Estate Case").
- 72. In that Petition, it is stated that John Cahill, "was nominated by Jason Hanson, the sole heir of [Gerhard Hanson]."
  - 73. It is further stated that the gross value of the Estate may exceed \$200,000.
- 74. On October 17, 2008, the Court in the Estate Case issued Letters of Administration, naming Defendant Cahill the Administrator of Gerhard Hanson's estate.
- 75. On January 27, 2009, Defendant Goldsmith, on Defendant Cahill's behalf, filed an Inventory, Appraisement and Record of Value with the Court in the Estate Case.
- 76. On May 21, 2009, Defendant Goldsmith, on Defendant Cahill's behalf, filed in the Estate Case a First and Final Account, Report of Administration, and Petition for Fees, Establishment of Trust, Distribution and Discharge with the Court.
  - 77. In that filing, Defendant Cahill requested that the JHSNT-II be created.
- 78. In that filing, Defendant Cahill included a copy of the proposed trust document, a document created by Defendant Goldsmith, which is essentially identical to a trust document that she created in 2007 for the JHSNT-I.
- 79. On June 12, 2009, Defendant Goldsmith, on Defendant Cahill's behalf, filed an Ex Parte Application for an Order to Waive Appraisal in the Estate Case.

FIRST AMENDED COMPLAINT - 9

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- 80. In this Application, it is stated that the Zillow estimate for the real estate was \$40,000 less than the prior estimate of value Defendant Cahill used in the Estate's Court filings – a higher value upon which Defendant Cahill based his statutory fee.
- 81. At no time did Defendant Cahill or Defendant Goldsmith seek to file an amended Final Account, Report of Administration, and Petition for Fees, Establishment of Trust, Distribution and Discharge with the Court, as a result of this revised estimate.
- 82. The reality is that the real estate was worth less than 40% of even the Zillow estimate, a fact that Defendant Cahill would have realized had he spoken to an appraiser (or read a single article about the accuracy of Zillow).
  - 83. Further, Defendant Cahill stated, falsely, that he "waived [his] fee in this matter."
- 84. On June 22, 2009, the Court entered an order approving the Ex Parte Application to Waive Appraisal in the Estate Case.
- 85. On the same day, the Court entered an Order Approving Settling First and Final Account, Report of Administration, and Petition for Fees, Establishment of Trust, Distribution and Discharge with the Court in the Estate Case.
- 86. Notwithstanding, Defendant Cahill's assertion to the Court in his June 12, 2009, Ex Parte Application that he "waived [his] fee in this matter," this Order proposed by Defendant Cahill, through counsel, expressly stated that "the Administrator is authorized and directed to pay administration fees from the Estate account to JOHN CAHILL, Clark County Public Administrator in the amount of \$4,662.95."
- 87. This amount is reflected as a distribution of the estate in subsequent court filings in the Estate Case.
- This order further authorized the JHSNT-II to be created, with Jared Shafer, of 88. Professional Fiduciary Services of Nevada, Inc. ("PSFN") serving as trustee.
- 89. On June 23, 2009, Defendant Goldsmith signed, and on June 29, 2009, filed in the Guardianship Case a Supplement to Mr. Shafer's Petition, stating that the "assets of the Ward do not exceed \$2,500 and as such no filing fee per NRS 19.013 is required." This was a false statement.

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- 90. On July 2, 2009, Defendant Cahill filed a receipt in the Estate Case indicating that he received \$4,662.95 from the assets of the Estate of Gerhard Hanson.
- 91. On July 17, 2009, the day after the Court in the Guardianship Case entered an order confirming Mr. Shafer's appointment as successor trustee was entered into the Court's records in the Guardianship Case, Defendant Goldsmith filed a Petition to Reconsider First and Final Account, Report of Administrator, and Petition for Fees, Distribution and Discharge in the Estate Case.
- 92. In that July 17, 2009, Petition, it was stated that "[a]fter the approval of the final account, it was discovered that there [were] insufficient funds in the Estate to satisfy all of the claims."
- 93. This July 17, 2009, Petition was filed after Defendant Cahill filed a receipt for his fee.
- 94. No effort was made to return that fee, or re-calculate the fee based on the actual value of the estate.
- 95. On July 31, 2009, an order was entered in the Estate Case approving the Petition to Reconsider.
- 96. On October 26, 2009, Defendant Goldsmith filed a receipt in the Estate Case indicating that she received \$5,660.28 from the assets of the Estate of Gerhard Hanson.
- 97. On January 13, 2010, Defendant Goldsmith filed a receipt in the Estate Case indicating that Jared Shafer, as trustee of the JHSNT-II, received \$6,952.36, of behalf of Jason Hanson, from the assets of the Estate of Gerhard Hanson.

#### FIRST CLAIM FOR RELIEF

#### (Declaratory Relief against all Defendants)

98. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.

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- 99. Under Nevada law, "[a]n action may be brought by any person against another who claims an estate or interest in real property, adverse to the person bringing the action, for the purpose of determining such adverse claim." Nev. Rev. Stat. § 40.010.
- 100. This Court has the power and authority to declare the rights, status and interests of Plaintiff and Defendants with respect to any actions taken on behalf of Mr. Hanson by any or all of the Defendants.
- 101. Because this Court entered an order on March 12, 2015, in the Guardianship Case vacating all post September 21, 2007, court orders, any actions which occurred pursuant to the authority conferred by any court order in the Guardianship Case issued after September 21, 2007, should be deemed void ab initio.
- 102. As all such acts should be deemed void, Plaintiff seeks an order from this Court requiring that any such actions be reversed, returning any and all monies to Mr. Hanson that were otherwise spent or distributed as a result of any voided court order.

#### **SECOND CLAIM FOR RELIEF**

#### (Declaratory Relief &

#### NRS §159.315 Damages against Frances-Ann Fine)

- 103. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
- 104. As a court appointed guardian, Defendant Fine had certain statutory duties to Mr. Hanson pursuant to NRS Chapter 159.
- Pursuant to NRS §159.176, "[e]very guardianship established pursuant to this chapter must be reviewed by the court annually." NRS §159.176.
- 106. Pursuant to NRS §159.177, a court appointed guardian is required to make various filings with the Court.
- 107. Pursuant to NRS §159.199(2), "[a] guardian is not relieved of liability for his or her term as guardian until an order of discharge is entered and filed with the court."
  - 108. Defendant Fine was a court appointed guardian of Mr. Hanson.

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109. On September 21,	2007, Jason	Hanson	turned	18
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- 110. Upon turning 18, Defendant Fine stopped doing any work as guardian.
- 111. Defendant Fine never took the appropriate actions to ensure that the funds in the Charles Schwab account were properly used to fund the JHSNT-I.
- 112. Defendant Fine never took the appropriate actions to ensure that as heir to Gerhard Hanson's estate, Plaintiff received all of the assets due to him as part of his inheritance.
- 113. In fact, the monies in the Charles Schwab account were never conveyed to Mr. Hanson.
- 114. It is unclear to this day what ever happened to the funds from the Charles Schwab account.
- 115. Defendant Fine never made any filings with the Court in the Guardianship Case after Mr. Hanson turned 18.
- 116. On January 15, 2015, the Court entered an order stating that the "General Letters of Guardianship issued to [Defendant] fine [were] thereby revoked."
- 117. On March 12, 2015, the Court entered an order in the Guardianship Case vacating all post September 21, 2007, court orders.
- 118. NRS §159.305, states that "[i]f a guardian, interested person, ward or proposed ward petitions the court upon oath alleging: (a) That a person has or is suspected to have concealed, converted to his or her own use, conveyed away or otherwise disposed of any money, good, chattel or effect of the ward; or (b) That the person has in his or her possession or knowledge any deed, conveyance, bond, contract or other writing which contains evidence of, or tends to disclose the right, title or interest of the ward or proposed ward in or to, any real or personal property, or any claim or demand, the judge may cause the person to be cited to appear before the district court to answer, upon oath, upon the matter of the petition."
  - 119. Mr. Hanson, through this Complaint, hereby alleges that Defendant Fine:
    - a. Was his guardian pursuant to court order,
    - b. Through Defendant Fine's inaction, Mr. Hanson's assets were improperly converted, depriving him of the benefit of such assets.

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- 120. Mr. Hanson seeks a declaration from this Court that Defendant Fine's inaction resulted in the improper disposition of assets which were legally his.
  - 121. Mr. Hanson seeks such declaration pursuant to NRS §159.315.
  - 122. Mr. Hanson seeks return of such assets pursuant to NRS §159.315.
- 123. As a direct and proximate result of the Defendant's conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.
- 124. Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.
- 125. Mr. Hanson seeks double the value of the asset, and damages, including attorneys fees and costs, pursuant to NRS §*159*.315.

#### THIRD CLAIM FOR RELIEF

#### (Breach of Fiduciary Duty against All Defendants)

- 126. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
  - 127. As a court appointed guardian, Defendant Fine had a fiduciary duty to Mr. Hanson.
  - 128. As a trustee to the JHSNT-II, Defendant Tyrell had a fiduciary duty to Mr. Hanson.
  - 129. As a successor trustee to the JHSNT-I, Defendant Shafer had a duty to Mr. Hanson.
- 130. As public administrator who was deemed to represent the heirs of Gerhard Hanson's estate, Defendant Cahill had a fiduciary duty to Mr. Hanson.
- 131. Working in various roles related to Mr. Hanson and his various special needs trust, Defendant Goldsmith had a fiduciary duty to Mr. Hanson.
- 132. Defendant Fine breached her duty to Mr. Hanson by failing to act as guardian once Mr. Hanson turned 18 years of age, despite the court order requiring her to fund the JHSNT-I, and her statutory duties to act as guardian until discharged by the Court.
- 133. Defendant Tyrell breached her fiduciary duty to Mr. Hanson by failing to safeguard Mr. Hanson's assets, and act in Mr. Hanson's best interests with respect to the assets covered by the JHSNT-II.

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- 134. Defendant Cahill breached his fiduciary duty by failing to obtain an appraisal of the real estate included within Mr. Hanson's estate prior to the sale of that property.
- 135. Defendant Cahill breached his fiduciary duty by failing to maximize the proceeds from the assets of Mr. Hanson's estate and taking fees from the estate, despite his assertions to the Court.
- 136. Defendant Shafer, Defendant Professional Fiduciary Services of Nevada, Inc., and Defendant Goldsmith, breached their fiduciary duties by charging excessive and/or fraudulent fees in Mr. Hanson's cases.
- 137. Defendants breached that duty by knowingly allowing funds belonging to the Plaintiff to be withdrawn, utilized and taken by other Defendants in violation of Nevada and Federallaw and without due regard to the property rights of Plaintiff.
- 138. Defendants Fine, Tyrell and Goldsmith breached their duties to Plaintiff by failing to take timely, effective action to investigate the identity, value and safeguard Mr. Hanson's assets in the Guardianship Case.
- 139. As a direct and proximate result of the Defendants conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.
- 140. Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.

#### **FOURTH CLAIM FOR RELIEF**

#### (Conversion against All Defendants)

- 141. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
- 142. Defendants committed a distinct act of dominion wrongfully exerted over Mr. Hanson's property by deducting or accepting monies from the Guardianship and Estate bank accounts, without a valid court order or proper investigation as to the lawfulness of the payments.
  - 143. These acts were in denial of, or inconsistent with, Plaintiff's title or rights therein.

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- 144. The acts were in derogation, exclusion or defiance of Plaintiff's rights or title in the personal property.
- 145. As a direct and proximate result of the Defendants conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.
- 146. Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.

#### FIFTH CLAIM FOR RELIEF

#### (Civil RICO, Fraud against All Defendants)

- 147. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
- 148. Defendants, in concert and with intent, absconded with an amount to be proved at trial from the Plaintiff by means of multiple crimes of the same or similar pattern that are interrelated and not isolated incidents.
- 149. By Defendants' multiple fraudulent acts of embezzlement of funds and receiving possession of money in excess of \$250.00, Defendants committed predicated racketeering acts.
- 150. Plaintiff suffered injury by reason of Defendants' commission of predicated racketeering acts.
  - 151. Defendants' violations proximately caused the Plaintiffs' injuries.
  - 152. Plaintiff did not participate in the racketeering activities.
- 153. The proceeds of these racketeering activities (multiple crimes) have, on information and belief, been used in operation of at least one enterprise.
- 154. Under NRS §207.470, the Plaintiff is entitled to damages from the Defendants in the amount of three times the actual damages.
- 155. Plaintiff is entitled to damages from the Defendants and remedies set forth in 18 U.S.C. §§ 1961-1968, et seq., including an award of damages in the amount of three times the actual damages.
  - 156. Plaintiff is entitled to an award of punitive damages.

- 157. In violation of NRS §207.400 and various federal statutes, Defendants conspired together to commit this racketeering activity.
- 158. As a direct and proximate result of the Defendants conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.
- 159. Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.

#### SIXTH CLAIM FOR RELIEF

#### (Negligence against All Defendants)

- 160. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
  - 161. Defendants owed a duty of care to Plaintiff.
- 162. Defendants breached their duty by failing to properly identify, value and safeguard the assets of Mr. Hanson.
- 163. Defendants Tyrell and Shafer, as trustees of Mr. Hanson's various special needs trusts, failed to properly protect and invest Mr. Hanson's assets.
- 164. Defendant Fine failed to properly ensure that the JHSNT-I was funded and that the assets in that trust were properly invested.
- 165. Defendant Shafer failed to properly value the real estate asset comprising the estate which he was administering.
- 166. All Defendants failed to comply with various laws to make truthful and timely court filings.
- 167. As a direct and proximate result of the Defendants conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.
- 168. Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.

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#### SEVENTH CLAIM FOR RELIEF

#### (Unjust Enrichment against All Defendants)

- 169. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
- 170. As described herein, by charging fraudulent and/or exaggerated expenses to Plaintiffs account, the Defendants unjustly retained the money and/or property of Plaintiff against fundamental principles of justice or equity and good conscience.
- 171. As described herein, Defendants have received funds which were Mr. Hanson's without proper court order allowing them to receive such funds.
- As a direct and proximate result of the Defendants conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.
- Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute 173. this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.

#### EIGHTH CLAIM FOR RELIEF

#### (Violation of NRS §41.1395 against All Defendants)

- 174. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of this Complaint as though fully set forth herein and incorporates the same herein by reference.
- 175. Plaintiff, at all relevant times herein, was a "vulnerable person" within the meaning of NRS 41.1395(e).
- 176. Plaintiff suffered a loss of money or property caused by the failure of Defendants to act with due care, through their exploitation of him as a result of their trusted positions within the estate and guardianship systems, as described herein and within the meaning of NRS §41.1395.
- 177. In exploiting Plaintiff, Defendants acted with recklessness, oppression, fraud and/or malice.
- 178. As a direct and proximate result of the Defendants conduct, Plaintiff is entitled to compensatory damages in excess of \$15,000 to be proven at trial.

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- 179. Pursuant to NRS §41.1395, Plaintiff is entitled to double damages.
- 180. Plaintiff has been compelled to secure the services of HAFTERLAW to prosecute this action and is entitled to recover costs and legal expenses, including reasonable attorneys fees.

#### **PRAYER FOR RELIEF**

- 1. For a declaration and determination that Defendants' actions were without proper court order.
- 2. For a declaration and determination that Defendant Fine violated her statutory duties under NRS Chapter <u>159</u>, resulting in Plaintiff's loss of assets.
  - 3. For general damages in an amount in excess of \$15,000.
  - 4. For double damages against all Defendants pursuant to NRS §41.1395.
  - 5. For double damages against Defendant Fine pursuant to NRS §159.315.
- 6. For treble damages against all Defendants pursuant to Nevada and United States Civil RICO statutes.
  - 7. For cost of suit, prejudgment interest and attorneys fees and costs.
  - 8. For compensatory damages in excess of \$15,000.
  - 9. For punitive damages in excess of \$15,000.
  - 10. For any other and further relief which this Court may deem just and equitable.

#### **JURY DEMAND**

Pursuant to Nevada Rules of Civil Procedure 38, the Nevada constitution, and the United State Constitution, Plaintiff hereby demands a jury trial.

### Dated this 18<sup>th</sup> day of July, 2017.

### HAFTERLAW

By:

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