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8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF LOS ANGELES**  
11

12 LISA MARIE PRESLEY,

13 Petitioner,

14 vs.

15 BARRY J. SIEGEL, an individual and  
16 PROVIDENT FINANCIAL  
MANAGEMENT, an unknown legal entity,

17 Respondents.  
18 \_\_\_\_\_  
19

**CASE NO. 18STPB01759**

Judge: Hon. Robert S. Wada  
Dept.: 99

**BARRY J. SIEGEL'S RESPONSE TO  
THE PETITIONER'S OBJECTIONS  
TO THE ACCOUNT AND REPORT OF  
THE FORMER CO-TRUSTEE OF THE  
PROMENADE TRUST**

[Index of Evidentiary Exhibits Lodged  
Conditionally Under Seal Concurrently  
Herewith]

Date: August 26, 2019  
Time: 8:30 a.m.  
Dept: 99

Action Filed: February 21, 2018

22  
23 **PUBLIC-REDACTS MATERIALS FROM CONDITIONALLY SEALED RECORD**  
24 **REDACTED PURSUANT TO CRC 2.551(B)(4)**  
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Respondent, BARRY J. SIEGEL, one of the former co-trustees of the Promenade Trust, hereby responds to Petitioner Lisa Marie Presley's ("Lisa") Objections to the Account and Report, respectfully showing the Court as follows:

**1. INTRODUCTION**

Lisa's objections to the accountings are based on an alternate reality. Lisa continues to ignore the fact that she received detailed financial reports and advice over the years, as well as the professional advice received from lawyers involved in the 2005 CKX transaction. Yet, Lisa does not dispute that Siegel met with her regularly each year over his tenure as the co-trustee of the Promenade Trust. She does not dispute that Siegel provided her with detailed financial information about her and the Trust's financial condition, or that Siegel reviewed her tax returns and those of the Trust with her on at least an annual basis. She also does not dispute that she instructed Siegel and Provident not to leave her copies of the financial reports and tax returns.

The truth is that Lisa received all of the information that she now claims she never received, and more. This includes information concerning the accounting fees charged to the Trust and the business management fees Provident Financial Management charged for the work it did on her behalf. This information is set forth in the financial reports and tax returns that she received each year and was otherwise discussed. Siegel is not responsible for Lisa's refusal to take copies of the information he provided.

The baselessness of her allegations is further demonstrated in her feigned ignorance of the 2005 transaction between CKX and the Trust. Claiming she never understood the transaction or was told of its impact on the Trust, Lisa argues that Siegel entered into the transaction for his own personal motives, and without full disclosure. She conveniently omits that she spent weeks going over the transaction with her attorneys. And, she fails to advise this Court that she verified, under oath, (i) that she understood the transaction after consulting with her attorneys and; (ii) that the transaction was explained to her satisfaction by Siegel and a former co-trustee, her uncle Gary Hovey.

In fact, Lisa executed a verification as part of the 2005 CKX transaction expressly confirming that Siegel and Hovey entered into the transaction because *she gave them written*

1 *instructions to do so.* Siegel was obligated, under the trust documents, to follow her instructions.  
2 Even if Lisa had not instructed Siegel to enter into the transaction, the Trust expressly authorized  
3 him to do so based on the advice of the professionals the Trust retained to evaluate the  
4 transaction and the financial condition of the Trust. The Trust instrument expressly states that  
5 Siegel is entitled to rely on the advice of professionals, without further investigation and without  
6 any liability for doing so. Lisa actually amended the Trust to state these exculpatory provisions at  
7 the same time as she instructed Siegel to enter into the transaction.

8 Lisa also wrongly accuses Siegel of obfuscating his use of Trust assets based on a clear  
9 distinction existing between the Trust's assets, and Lisa's own personal bank accounts. This  
10 accusation neglects to mention that the accounts held by the Trust were always maintained  
11 separately from those that Lisa held in her own name. The division between the Trust's and  
12 Lisa's finances and bank accounts existed *before* Siegel became a co-trustee in December 2003.  
13 Siegel properly continued this division after agreeing to serve as a co-trustee. The accountings,  
14 therefore, comply with the Court's order.

15 In short, this case is nothing short of revisionist history – one in which Lisa seeks to  
16 absolve herself of any responsibility for her own acts. Siegel conscientiously performed his  
17 duties as the Trustee, and provided Lisa with financial information, as he was required to do.  
18 From 2004 through 2010, Siegel did not have a duty to provide a formal accounting under the  
19 Trust instrument; his only obligation was to provide reports to Lisa, which he did. Then, from  
20 2010 through 2016, after the Trust was amended, Siegel provided Lisa the financial information  
21 required by Probate Code § 16063 every year.

22 Thus, Lisa was at all times fully aware of the financial condition of the Trust. She knew  
23 (or should have known) of all the charges and fees at issue in her objections. Siegel could not  
24 force her to keep copies of the reports and other documents he provided to her. Lisa should not  
25 be allowed to escape the consequences of her decisions, and be allowed to complain more than a  
26 decade after the fact.

27 Accordingly, Siegel respectfully requests that the Court reject the Petitioner's objections  
28 to the accountings and enter an order approving them. Alternatively, if the Court entertains the

1 objections, Siegel respectfully requests that the Court set the matter for trial.

2 **2. FACTUAL BACKGROUND**

3 Regurgitating the same tired and false allegations about Siegel entering into the CKX  
4 transaction to serve his own personal ends, Lisa ignores the harsh financial reality that her  
5 spendthrift ways caused the Trust both before and after the CKX transaction in 2005. In the years  
6 leading up to the transaction, the entire Presley estate faced significant financial problems, and  
7 both Lisa and the Promenade Trust were heavily in debt. Yet immediately after the transaction  
8 that pulled the Trust out of millions in debt, Lisa continued her extravagant spending despite all  
9 the advice she received, spending virtually her entire fortune once again by 2012.

10 **A. The Trust Was Heavily Indebted Before The CKX Transaction**

11 When the Trust was established (long before Siegel agreed to serve as co-trustee), it was  
12 receiving millions of dollars in annual income. However, Lisa's continuous, excessive spending  
13 and reliance on credit far exceeded what the Trust could pay her from income alone. To meet her  
14 demands for cash, the National Bank of Commerce, obtained a series of loans secured by Elvis  
15 Presley Enterprise's ("EPE") assets. This still was not enough, and Lisa's spending soon put the  
16 Trust into millions of dollars of debt. Ex. A, Verified Response and Objection.

17 By 2003, EPE was approximately \$22 million in debt due to Lisa's spending, and the  
18 Trust itself was underwater by millions of dollars. At this point the bank refused to extend any  
19 further credit. Lisa's income was limited her income from EPE, reduced by the payments on the  
20 huge debt that was now on the books. The Presley estate was on the brink of insolvency when  
21 Lisa and EPE asked Siegel to evaluate options to address the dire financial situation. *Id.*

22 After numerous discussions, the only solution Lisa found appealing was to sell EPE  
23 stock, with the understanding that she never wished to part with ownership of the Graceland  
24 property. The Trust retained the Salter Group, an independent consulting firm to value a potential  
25 sale and find a buyer. The Salter Group submitted its report in 2005. Among other things, Salter  
26 identified search conditions and parameters, as Lisa requested, reviewed communications with  
27 potential buyers, and presented a detailed analysis of what Salter identified as the best offer. That  
28

offer came from a group led by Robert Sillerman. Siegel had never previously heard of Sillerman. *Id.*

**B. Lisa Was Represented By Counsel In Connection With The Transaction, And She Issued Written Instructions To The Trustees To Enter Into It**

Lisa knew of the details of the 2005 transaction before it was finalized, and specifically instructed Siegel and the other former co-trustee to enter into the transaction. Contrary to her allegations, Lisa was intimately familiar with the transaction, having taken weeks to make sure she understood it. Lisa's counsel at Proskauer Rose, as well as independent tax counsel not affiliated with Provident, analyzed and approved the Sillerman Group's offer. The transaction also was reviewed by counsel hired for the Trust and EPE. Lisa only authorized the sale of the EPE stock after the transaction was evaluated by numerous third-party professionals that had no relationship to Provident or Siegel. *Id.*

Then, in December 2004, after the terms of the CKX Transaction had been evaluated by counsel and Salter, Lisa amended the terms of the Trust to include provisions authorizing Siegel and Hovey to enter into the transaction *and to be absolved of any possible liability for doing so*. At the same time, Lisa executed written instructions as the beneficiary of the Trust to Siegel and Hovey. **Lisa confirmed, in writing, that Siegel and Hovey were entering into the transaction pursuant to her instructions.** Ex. B, Glanker Letter, LMP Certificate at ¶ 4. Lisa also confirmed in writing that she, "had an opportunity to discuss the Transaction Documents with legal counsel" and that "Further, the material and substantive provisions of the Transaction Documents have been explained to me by my manager/accountant, Barry Siegel, in the presence of Gary Hovey, to my satisfaction." *Id.* at ¶ 1.<sup>1</sup>

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<sup>1</sup> Of course, even if Lisa had not instructed Siegel and Hovey to enter into the 2005 Transaction, Siegel, as co-trustee was authorized under the trust instrument to execute the transaction on behalf of the Trust on advice of the accountants, attorneys and investment advisers who were retained in connection with the transaction, and without any independent investigation on his own part, to act upon their advice. Ex. B, 2004 Trust at p. 30; Ex. C, 2010 Trust at ¶ 2.1.20.2.

Accordingly, it was not until the transaction had been vetted, evaluated and negotiated by unrelated third-party professionals that Lisa instructed Siegel to enter into the transaction. Siegel and Hovey did so at her express written direction. Siegel cannot be held liable as a result.<sup>2</sup>

The transaction yielded a fantastic outcome for the Trust, which received \$49 million in cash (approximately \$40 million after taxes), plus preferred CKX stock valued at more than \$20 million, with a guaranteed 8% dividend, as well as \$500,000 shares of common stock. CKX also assumed the Trust's debts, which by this time were approximately \$22 million. The net effect of the transaction was to infuse the Trust with millions of dollars, give Lisa the cash that she needed, and bring EPE back from insolvency. Between the CKX dividends, the income from Lisa's remaining 15% interest in EPE, and management of cash assets, Lisa stood to receive millions in income annually without having to touch any of the Trust's principal. Unfortunately, she continued to refuse to control her spending and she ignored all the financial advice she received. Ex. A, Verified Response and Objection.

**C. Following The CKX Transaction, Lisa's Outrageous Spending Habits Continued Even Though And She Was Repeatedly Told To Reign In Her Spending**

After the CKX deal closed in 2005, Lisa immediately resumed her spendthrift ways, spending tens of millions of dollars, far more than she was receiving in annual income, in the first few years alone. Over time, Lisa spent not only her income from the trust, but most of its principal, and, to the extent she didn't spend the assets, she encumbered them. Lisa spent most of the money she received from the CKX transaction long before 2012.

The accountings that Siegel has filed show that, every year, the distributions to Lisa exceeded the Trust's income by the following amounts:

[REDACTED]

[REDACTED]

[REDACTED].

<sup>2</sup> [A] trustee of a revocable trust is not liable to a beneficiary for any act performed or omitted pursuant to written directions from the person holding the power to revoke, including a person to whom the power to direct the trustee is delegated." Probate Code § 16462.

1 The accountings also show that the Trust's total income between 2005 and 2012  
2 amounted to [REDACTED], far more than she could have ever received in distributions from  
3 EPE alone. Lisa spent virtually all of this money by the end of 2012, much of which went to buy  
4 real estate that she instructed Siegel to purchase.

5 A schedule of Lisa's extraordinary expenses, above her regular monthly expenses, shows  
6 she spent [REDACTED] by the end of 2012. Ex. E, Schedule of Extraordinary Expenses.  
7 Approximately [REDACTED] of that amount went to purchase new homes or to remodel her  
8 existing home. This figure does not include the expenses for the upkeep of the properties.  
9 Another [REDACTED] went to pay her federal and state taxes. She also spent [REDACTED] in travel  
10 expenses in those years because she refused to fly commercial. She spent nearly [REDACTED] on  
11 salaries and expenses for her staff, including several nannies, cooks, personal assistants and  
12 bodyguards.

13 **D. Siegel Repeatedly Told Lisa About Her And The Trust's Financial Condition**

14 Lisa now wants to blame Siegel for "allowing" her to spend her fortune, after years of  
15 ignoring his advice. Lisa was repeatedly told of the problems that her spending was causing. She  
16 knew exactly what she was doing and the effect it had on the remaining Trust principal. She now  
17 conveniently claims ignorance, but she was warned repeatedly that she had to cut her spending,  
18 and was advised endlessly on how she might better manage her finances.

19 Simply, Lisa tells this Court an outright lie, claiming that Siegel failed to advise her of  
20 the financial problems that she and the Trust faced. Lisa met with Siegel almost twice every year  
21 to go over her finances and tax returns. At each of these meetings, Siegel provided her with  
22 detailed financial information about her spending and ever-dwindling assets, and told her that she  
23 needed to reign in her spending. Lisa refused.

24 For example, in May 2008, Siegel met with Lisa to go over her and the Trust's finances.  
25 He provided her detailed documentation explaining that she was exceeding her monthly spending  
26 budget, and that her expenses were far exceeding the income she received from the Trust. Ex. G.

27 Then, in July 2008, Siegel met with Lisa again to go over her excessive spending. He  
28 provided her documentation detailing the income and expenses of the Trust for 2007, and reports



1 showing she had exceeded her income 2007 by [REDACTED]. Ex. H. The financial reports Siegel  
2 provided also showed that, in the first six months 2008, she had already outspent her income by  
3 approximately [REDACTED].

4 Undeterred and unwilling to cut-down on her spending, Lisa met with Siegel later that  
5 year, in November 2008. Ex. I. The financial reports provided at that time showed exactly what  
6 her monthly income was from the Trust, and that she still was regularly spending more than her  
7 income. Siegel also outlined the details of her extravagance, explaining that she spent [REDACTED]  
8 [REDACTED] in extraordinary expenses, above and beyond her monthly recurring expenses. The  
9 financial reports also detailed the full extent of the Trust's assets, and showed that Lisa was once  
10 again racking up significant loan liabilities (more than [REDACTED]), largely related to her private  
11 airplane and real property purchases.

12 Lisa met with Siegel the following year in December 2009. The Trust's assets were  
13 disclosed once again, along with the substantial liabilities Lisa had incurred since the 2005  
14 transaction. Ex. J. In an effort to get her to reduce her monthly expense, Siegel provided various  
15 options to reduce her monthly expenses.

16 In March 2010, Siegel met with Lisa again to advise her of the Trust's deteriorating  
17 financial condition, providing her with reports showing the total assets of the Trust, and the more  
18 than \$ [REDACTED] in loans the Trust had incurred since the 2005 transaction on account of her  
19 spending and real property purchases. Ex. K.

20 By the end of 2011, Lisa's overspending had reached the point that Provident had  
21 difficulty in paying her regular monthly credit card bills. The financial reports provided to her at  
22 the 2011 meeting showed that the Trust by that time had more than [REDACTED] in liabilities for  
23 mortgages on real estate that Lisa had instructed Siegel to purchase, and that Lisa had spent  
24 approximately [REDACTED] more than she had received in income that year. Ex. L.

25 By 2013, the Trust's financial condition had grown even more tenuous as a result of  
26 Lisa's spending. In February 2013, Siegel met with Lisa to address the situation. He provided her  
27 with financial reports showing that her spending had exceeded her income by more than [REDACTED]  
28

1 [REDACTED] in 2012. Ex. N. Undeterred, she spent approximately [REDACTED] more than her income in  
2 the first nine months of 2013. That information was disclosed to Lisa in November 2013. Ex. O.

3 A dissertation could be written about the financial information disclosed to Lisa, and her  
4 refusal to follow advice. However, the uncontroverted evidence is that Lisa met with Siegel  
5 every year to address her and the Trust's finances. The Trust's assets and liabilities were  
6 disclosed every year, along with the details of Lisa's continual overspending. Lisa refused to  
7 modify her spending despite all the advice she received, and squandered her fortune as a result.

8 **3. THE COURT SHOULD REJECT LISA'S OBJECTIONS THAT THE**  
9 **ACCOUNTING FAILS TO COMPLY WITH PROBATE CODE §§ 1061, *ET SEQ.***

10 **A. Provident and Siegel Are Legally Distinct**

11 In addressing Lisa's objections, the Court must recognize that Siegel is not Provident and  
12 Provident is not Siegel. Siegel may have a partial ownership interest in Provident and may have  
13 served as a corporate officer, but Provident is a separate legal entity, and must be treated  
14 separately. Lisa has not alleged that Provident is Siegel's alter ego, and could not prove that  
15 allegation even if she had.

16 As a separate legal entity, Provident's work on Lisa's behalf, as her business/financial  
17 management firm, should not be confused with Siegel's role as a co-trustee of the Trust.  
18 Provident had a separate contract with Lisa that spelled out its role in handling her personal  
19 financial affairs, which included the business management tasks associated with her personal  
20 financial affairs (including her record label, touring, etc.). Lisa knew of that contractual  
21 arrangement, and approved it. She also knew of the fees Provident charged for its services, and  
22 accepted those terms without objection.

23 **B. Siegel Complied With The Court Order To Account For The Trust**

24 The Court ordered Siegel to provide an accounting of the Trust. Siegel did exactly what  
25 the Court ordered him to do. The accountings and reports filed with the Court contain detailed  
26 summaries of all the transactions concerning the Trust that are required by the Probate Code.

27 Lisa now complains that the accounting fails to detail the full extent of her extravagant  
28 spending because the accounting details the financial transactions of the Trust, rather than her

1 personal bank accounts. She argues that this division between the Trust's finances and her own  
2 bank accounts is an "accounting trick" designed supposedly (and without evidence) to hide  
3 Siegel's use of the Trust to profit. Yet, Lisa has known for more than two decades that the  
4 Trust's accounts have been dealt with separately from her personal accounts.

5 In fact, this accounting method was in place before Siegel became the trustee. Siegel  
6 become a co-trustee in December 2003. However, Siegel and his prior business management  
7 firm had provided financial management services to Lisa, as an individual, since 1993. The  
8 personal accounts that Lisa held in her name existed long before Siegel became a trustee, and the  
9 trust had always maintained separate accounts. Ex. R. Siegel did not create this distinction.

10 Indeed, in 2009, Lisa demonstrated a clear understanding of the difference between the  
11 Trust's affairs and her personal financial affairs when she briefly terminated Provident's  
12 services. Growing increasingly frustrated with her financial situation, Lisa briefly replaced  
13 Provident, and hired Kevin Burke of Wiseman & Burke to serve as her business manager. As  
14 part of the transition, Lisa instructed Provident to transfer all of her personal financial affairs to  
15 Wiseman & Burke, including control over her personal bank accounts. She instructed Siegel to  
16 deal with the Trust accounts and its assets going forward. Exs. S & T.

17 The arrangement did not last long. Lisa fired Wiseman & Burke within a few months,  
18 after Wiseman & Burke advised her of the same financial problems that Siegel and Provident  
19 had been explaining to her for years.

20 Accordingly, it is clear that Lisa has known for decades the distinction between the  
21 accounts maintained for the Trust and those maintained for her personal affairs. Even knowing  
22 this distinction, Lisa never asked the Court to order Siegel or Provident to account for  
23 transactions in her personal accounts.

24 Nor could she have done so. Nothing in any of the Trust instruments establish a Trust  
25 with respect to Lisa's personal financial affairs, as the Trust beneficiary. The Trust accounts held  
26 specific assets that were placed in the Trust according to the trust instrument. Lisa maintained  
27 her own separate personal accounts, receiving distributions from the Trust as the beneficiary. She  
28

1 contracted with Provident (and, at times, other business managers) to handle those aspects of her  
2 financial affairs.

3 Siegel was legally required to separate trust property from those of the beneficiary, and  
4 he properly maintained this division. *See, e.g.*, Prob. Code § 16009. Had Siegel combined Lisa's  
5 personal finances with those of the Trust as Lisa now suggests he should have done, Siegel  
6 would have faced potential liability.

7 Importantly, the fact that all of the distributions from the Trust to Lisa went to her  
8 personal bank accounts or for her benefit is not actually in dispute. Lisa simply claims (falsely)  
9 that the money was then transferred to a bank account that "[Siegel] exclusively controlled in  
10 LMP's [Lisa's] name" and that Siegel set up these accounts for no apparent purpose other than to  
11 secretly profit. This claim is yet another example of Lisa denying reality as the bank accounts to  
12 which the Trust distributions went are the same bank accounts that existed before Siegel became  
13 a trustee.

14 Lisa had full access to those accounts, and the ability to draw money as she wanted for  
15 her personal spending. These funds were not Trust funds and Lisa was free to spend the money  
16 as she wished. Indeed, in prior years, Lisa and her personal assistants received bills directly and  
17 Lisa paid the bills herself. Lisa later instructed Provident to assume these duties, but that does not  
18 make her personal accounts part of the Trust.<sup>3</sup>

19 Accordingly, the Court should reject the assertion that Siegel was required to or should  
20 have to account for Lisa's personal financial affairs, and for the bank accounts held in her name.  
21 Such an undertaking would be enormous considering the time span involved, and the fact that  
22 her personal finances are intimately wrapped up with various personal endeavors, such as her  
23 music career. Siegel has already spent more than \$150,000 preparing the accountings for the  
24 Trust, which took nearly 9 months. An accounting of Lisa's personal finances would more than  
25 double that cost and take as much time.

26  
27 <sup>3</sup> Even though Lisa instructed Provident to receive and pay her bills, Provident regularly sent Lisa and her  
28 assistants monthly and/or weekly reports of the bills that she needed to pay over the years for approval. After Lisa  
informed Provident that either she or her ex-husband, Michael Lockwood, needed to approve all bill payments going  
forward, Provident began sending those weekly reports to both Lisa and Lockwood for approval.

1 Lisa also has not pointed to any reason why an accounting of her personal spending is  
 2 necessary. Lisa's only apparent concern with the accounting is that it does not show how much  
 3 Provident received over the years for the business management services that it provided Lisa.  
 4 That information is easily obtainable in discovery, and, indeed easily ascertainable if Lisa simply  
 5 looks at her bank statements (which she has access to), or the financial database that Provident  
 6 turned over to her when she terminated Siegel and Provident in 2016. Provident's fees are readily  
 7 ascertained by the financial reports and the database that Lisa already has in her possession.

8 Indeed, Lisa apparently knows the amounts she claims Provident charged, as she  
 9 repeatedly throws out a number, claiming that Provident received \$4.9 million since Siegel  
 10 became a trustee. The exact number can be determined through basic discovery, without a formal  
 11 accounting of her personal bank accounts, which are not subject to the Trust.

12 **4. LISA HAS THE BURDEN OF PROVING THAT SIEGEL ACTED IN BAD**  
 13 **FAITH AND THAT ANY OF THE PROFESSIONAL FEES CHARGED TO THE**  
 14 **TRUST WERE UNREASONABLE**

15 In addressing Lisa's objections about the professional fees charged to the Trust, the Court  
 16 is reminded that those fees are presumptively reasonable. The Trust instruments expressly state  
 17 that Siegel's actions are presumed to be in good faith and in the best interests of the Trust. *E.g.*,  
 18 Ex. B, 2010 Trust at § 1.8. Lisa bears the burden of showing the fees were both unreasonable,  
 19 and that Siegel paid them in bad faith.

20 **A. Provident's Accounting Fees Were Disclosed And Reasonable**

21 Conflating Siegel, as the co-trustee of the Trust, and Provident, as the business entity that  
 22 contracted with Lisa to provide business management services, Lisa claims that Siegel falsely  
 23 declared that he did not received fees for his work as the Trustee. However, Siegel's statements  
 24 are unquestionably accurate.

25 Siegel did not, as claimed in the Petition, receive any money for his work as the Trustee.  
 26 However, Provident charged for business management services that Siegel and others performed  
 27 on the Trust's behalf. Those payments were charged at the company's standard hourly rate. Lisa  
 28 acknowledges that Provident, not Siegel received these payments, pointing to the Trust's

1 payments to Provident as evidence that Siegel secretly profited as the Trustee.

2 Further, the accountings show that the total amounts paid by the Trust to Provident for its  
3 business management services were typically well below \$100,000 annually, and typically in the  
4 range of \$30,000 to \$50,000 per year. The trust paid accounting fees in excess of \$100,000 only  
5 in four years (2005, 2010, 2011, 2013).<sup>4</sup> Because the Trust authorized Siegel to retain  
6 accountants to assist with the Trust administration, payments to Provident do not serve as the  
7 basis for a breach of trust claim so long as those fees were reasonable. Lisa bears the burden of  
8 proving that the amounts that Provident charged were unreasonable and that Siegel as trustee,  
9 paid those charges in bad faith.

10 Even assuming, *arguendo*, that Siegel and Provident should be treated as the same, and  
11 that payments to Provident for the hourly work it performed should be deemed “trustee fees,” the  
12 fees that were charged to the Trust for hourly work were expressly authorized. The 2004 Trust  
13 expressly stated that Siegel was entitled to reasonable fees for his services as the trustee. The  
14 2010 Trust confirmed Siegel’s entitlement to fees as a trustee. Ex. C, 2010 Trust at ¶ 1.5. Neither  
15 Trust required prior approval of Siegel’s fees by Lisa or anyone else. The question is whether  
16 those fees were reasonable. Lisa bears the burden of showing that they were not.

17 For Lisa to claim that Siegel secretly profited because of the work that Provident  
18 performed for Lisa and the Trust is outrageous and falls flat in light of the financial information  
19 she received each year. All accounting and other professional fees that the Trust incurred each  
20 year were clearly shown in the financial reports she received as well as in the tax returns that  
21 Siegel went over with Lisa each year. The Court need only review select samples of these reports  
22 and her tax returns to determine that this information was disclosed. *See, e.g.*, Exs. F through O.

23 Indeed, Lisa accuses Siegel of not disclosing a \$200,000 payment to Provident in 2011.  
24 Yet, like he did every year, Siegel met with Lisa in March 2012 to go over her finances. The  
25 parties expressly discussed the amount of legal and accounting fees the Trust incurred in 2011,  
26

---

27 <sup>4</sup> Lisa’s recitation in her objections of larger amounts allegedly received by Provident is inexplicable,  
28 considering the fees stated in Schedule D do not even closely match the numbers she lists in her objections. Except  
for 2005, the accountings do not list any other payments to Provident or Siegel outside Schedule D.

1 along with the amount of business management fees that Provident charged that year. The same  
2 is true with respect to virtually every annual meeting they held, as shown in the financial reports  
3 and tax returns that Lisa received over the years.

4 **B. Provident's Business Management Fees Were Disclosed And Agreed Upon**

5 Lisa does not dispute that Provident served as her business management firm for nearly  
6 two decades – from long before Siegel agreed in December 2003 to serve as a co-trustee. Lisa  
7 also does not dispute that Provident did, in fact, provide those services over the years. She  
8 simply claims that she the fees were never disclosed, and were excessive.

9 The truth is that she expressly agreed to the fee arrangement with Provident. In 1993,  
10 when Provident's predecessor firm began providing services to her, Lisa paid for those services  
11 at an hourly rate. Over the years, Provident switched to a flat monthly fee for its services because  
12 Siegel wanted Lisa to save money over what she was paying hourly. All such fees were paid  
13 from her personal accounts, not from the Trust, because the work involved her personal finances  
14 and her business affairs – not the administration of the Trust.

15 Lisa not only knew of the flat-fee arrangement, but those fees were regularly disclosed.  
16 Again, Siegel met with Lisa regularly each year to go over her finances. Lisa has never denied  
17 that these financial meetings took place, or that Siegel followed her express instructions to bring  
18 the documents with him to the meetings and to take them away after the meetings because she  
19 did not want copies of the documents in her house.

20 A review of the financial reports, along with her tax returns, makes clear that Lisa  
21 received notice of the fees Provident charged for its services. The financial reports and her tax  
22 returns contain line items relating to the expenses she incurred annually for business  
23 management fees, accounting and other professional fees.

24 **C. Lisa Cannot Show The Amounts Paid To Other Professionals Were**  
25 **Unreasonable Or Unauthorized Under The Trust**

26 Lisa's desperate attempt to avoid all responsibility for wasting the Trust's assets is  
27 readily apparent as she lashes out about at the amounts paid, not to Provident, but to all of the  
28 lawyers and other professionals that advised her and the Trust in connection with the 2005

1 transaction. There is no evidence that those fees were excessive or unauthorized, and Lisa will  
2 never able to prove her claims.

3 The Trust expressly authorized Siegel to retain professionals, including accountants,  
4 investment advisors, and lawyers, to assist in the administration of the Trust. Lisa specifically  
5 amended the Trust in 2004 in anticipation of the approaching 2005 transaction to include  
6 provisions authorizing Siegel to retain the professionals, and to act on their advice, without  
7 further investigation and without or liability for doing so. Had he not done so, Lisa would now  
8 be complaining that Siegel had failed to retain legal and other professionals to evaluate and  
9 advise the Trust on the transaction.

10 The Trust further authorized Siegel to compensate those professionals for their work.  
11 Again, the Trust did not require Lisa's or anyone else's prior approval. The Trust expressly  
12 authorized Siegel to pay their fees. Lisa bears the burden of showing the fees were both  
13 unreasonable and paid in bad faith.

14 It is perplexing that Lisa now claims that Siegel paid those professionals "without regard  
15 to the value of the services performed" and "without attempting to negotiate a better deal for  
16 LMP." On the one hand, Lisa (falsely) purports to have no genuine knowledge about the CKX  
17 transaction or the advice she received from the same lawyers whose bills she now attacks. On the  
18 other hand, Lisa now makes allegations that their fees were excessive based on the value of their  
19 work, *i.e.* insinuating she knows enough about the work they performed to make that claim. Her  
20 positions are nonsensical and contradictory.

21 Regardless, Siegel did, in fact, raise issues with regard to the bills of the professionals  
22 when he believed the bills were too high, and he negotiated reductions of their fees on behalf of  
23 the Trust. For instance, one of the items Lisa challenges concerns the \$700,000 payment to the  
24 Proskauer firm for its work on the transaction. However, Proskauer actually incurred much more  
25 in fees for its work on the transaction. Proskauer explained to Siegel in 2005 that the transaction  
26 was much more complicated than originally anticipated. Proskauer estimated that any other firm  
27 of its size would have charged more than \$1 million for the work that it performed. Ex. U.



1 Siegel negotiated Proskauer's fees down for the benefit of the Trust, persuading the firm  
2 to accept \$700,000 for its services up to the closing, and reached an agreement that the firm  
3 would perform a substantial amount of post-closing work for no extra charge. *Id.*

4 Lisa similarly claims that the payments to Sukin Law Group constitutes an example of  
5 excessive compensation, and constitutes an unusual transaction for which a further explanation is  
6 required. Probate Code § 1064 only requires Siegel to identify the amounts he paid to the  
7 attorneys he retained. To the extent that the Court requires a further explanation of their work, or  
8 the fees incurred, the firm's invoices for their work are attached. Exs. V & W, Sukin Law  
9 Invoices. The additional \$103,999.02 payment that the Sukin Law Group received was based on  
10 its post-closing work for EPE in February and March 2005, which was separate from the pre-  
11 closing work.


12 In short, Lisa expressly authorized Siegel to retain the professionals he hired on behalf of  
13 the Trust, and to pay their fees. Lisa expressly agreed that Siegel's payment of those fees were  
14 presumptively in good faith, and that it would be her burden to show otherwise. Lisa cannot  
15 produce any evidence showing that the professionals Siegel hired did not perform their duties,  
16 that the fees were unreasonable, or that Siegel should not have paid them for their work.

## 17 **5. CONCLUSION**

18 For foregoing reasons, Siegel respectfully requests that the Court reject the Petitioner's  
19 objections to the accountings that he filed for the Trust and enter an order approving them. If the  
20 Court is inclined to entertain the objections, Siegel respectfully requests that the Court set the  
21 matter for trial.

Dated: August 13, 2019

GLADSTONE WEISBERG, ALC

BY:   
Leon Gladstone  
Michael J. Aiken  
Anthony DiPietra  
Attorneys for Respondents Barry J. Siegel and  
ProvidentFM

**AFFIDAVIT AND DECLARATION OF PROOF OF SERVICE**

I am over the age of eighteen years and not a party to the within action. I am Of Counsel to the law firm of Gladstone Weisberg, ALC, whose business address is: 300 Corporate Pointe, Suite 400, Culver City, California 90230 ("the firm").

On August 13, 2019, I served the within document(s) described as: **BARRY J. SIEGEL'S RESPONSE TO THE PETITIONER'S OBJECTIONS TO THE ACCOUNT AND REPORT OF THE FORMER CO-TRUSTEE OF THE PROMENADE TRUST** on the interested parties in this action:

☒ by placing ☐ the original ☒ true copy(ies) thereof enclosed in sealed envelope(s) ☐ addressed as follows: ☒ addressed as stated on the attached mailing list.

SEE ATTACHED MAILING LIST.

☒ **EMAIL** (§ 1013(a), (e); CRC 2.250)—by transmitting said document(s) by electronic mail at 300 Corporate Pointe, Suite 400, Culver City, CA 90230, to the respective e-mail address(s) of the party(ies) as stated above/on the attached mailing list. The document was served electronically and the transmission was reported as complete and without error.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 13, 2019, at Murphy, Texas.

  
ANTHONY DIPIETRA

**MAILING LIST**  
**PRESLEY v. SIEGEL, et al. – CASE NO. 18STPB01759**

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