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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES
PROBATE DIVISION

In the matter of:

**THE BUSTER BROWN TRUST
AGREEMENT OF 2004**

ALFALFA SMITH,

Petitioner.

Case No.:

**VERIFIED PETITION FOR ORDER
DETERMINING TITLE TO ASSETS**
[Probate Code §§ 850(a)(3)(B), 856]

Petition Filed:

Hearing Date:

Assigned:

Dept:

Time:

Alfalfa Smith ("Petitioner"), as Trustee of the Buster Brown Trust Agreement of 2004 ("Trust"), hereby petitions this Court for an order declaring that he, as trustee, is the rightful owner of the sale proceeds of certain real property, located at 1234 Greenpoint Lane, City of Greenpoint, County of Los Angeles ("Greenpoint Lane"), APN 123-456-789-000, that was in the possession of Darla DuPont ("Darla"). Upon information and belief, Greenpoint Lane was acquired with Trust funds by then-trustee, Keegan DuPont ("Keegan"). Petitioner requests this Court order (1) that the Trust is the rightful owner of the proceeds of the sale of the interest in real property, (2) that Darla return all such proceeds to the Trust, and (3) such other relief as the Court deems appropriate.

VERIFIED PETITION FOR ORDER DETERMINING TITLE TO ASSETS

JURISDICTION AND VENUE

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2 1. The proper county for commencement of this proceeding is the county where the
3 principal place of administration of the trust is located (Prob. Code §17005(a)). The
4 principal place of administration of a trust is the usual place where the day-to-day activity of
5 the trust is carried on by the trustee (*see* Prob. Code § 17002(a), (b)(1)).

6 2. Trustee administers the Trust from Los Angeles County, making it the principal
7 place of administration.

8 3. Per Probate Code sections 17003 and 17004, and Code of Civil Procedure section
9 410.10, this Court has personal jurisdiction over Darla DuPont.

FACTUAL BACKGROUND

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11 4. Buster Brown (“Buster”) executed the Trust on March 31, 2004. See the Buster
12 Brown Trust Agreement of 2004, attached as **Exhibit A**.

13 5. Per Article IV.A.1. of the Trust, Buster is the sole lifetime beneficiary.

14 6. Per Article VI.B.1.b. of the Trust, Petitioner is the sole remainder beneficiary.

15 7. On April 2, 2005, Buster executed a First Amendment to the Buster Brown Trust
16 Agreement of 2004 (“First Amendment”). Per Section 2 of the First Amendment, Buster’s
17 longtime friend Keegan replaced Buster as Trustee of the Trust. Per Section 3 of the First
18 Amendment, Petitioner was named Successor Trustee. See First Amendment to the Buster
19 Brown Trust Agreement of 2004, attached as **Exhibit B**.

20 8. In August 2014, doctors diagnosed Buster with pancreatic cancer. See Doctor’s
21 Note and Accompanying Medical Records, attached as **Exhibit C**.

22 9. Buster passed away on February 27, 2015.

23 10. On or about May 17, 2015, Keegan used Trust funds to purchase Greenpoint
24 Lane.

25 11. Upon information and belief, Keegan’s use of Trust funds to purchase
26 Greenpoint Lane was for Keegan’s own personal benefit.

27 12. Title to Greenpoint Lane was placed in the name of Keegan and his wife Darla as
28 joint tenants, and not in the name of the Trust. See Quitclaim Deed, attached as **Exhibit D**.

1 13. In the spring of 2016, Keegan was diagnosed with Alzheimer's disease. See
2 Medical Records, attached as **Exhibit E**.

3 14. On July 7, 2016, Keegan formally resigned as Trustee of the Trust. See
4 Resignation of Trustee Keegan W. DuPont Dated July 7, 2016, attached as **Exhibit F**.
5 Keegan subsequently moved out of Greenpoint Lane and into the Our Gang Care Home
6 located on the outskirts of the City of Greenpoint, County of Los Angeles.

7 15. Per Section 3 of the First Amendment, Petitioner became Trustee of the Trust.

8 16. On or about October 13, 2016, Darla sold the real property located at Greenpoint
9 Lane. See Grant Deed, attached as **Exhibit G**.

10 17. Darla subsequently moved into an apartment unit located near the Our Gang
11 Care Home.

12 18. Upon information and belief, the proceeds of the sale of Greenpoint Lane totaled
13 at least \$500,000.

14 19. Although Trust funds were used to purchase Greenpoint Lane, Darla has retained
15 the proceeds of the sale of Greenpoint Lane and communicated her intent to keep them.

16 20. Petitioner discovered the facts of the 2015 purchase and 2016 sale of Greenpoint
17 Lane in December 2016.

18 **PROBATE CODE SECTIONS 850(a)(3)(B) and 856**

19 21. Probate Code section 850(a)(3)(B) permits a Trustee, who has a claim to real or
20 personal property in which title is held by another, to file a petition with the Court.

21 22. Probate Code section 856 grants the Court the power to issue an order
22 authorizing and directing the person having title or possession of the property to execute a
23 conveyance or transfer to the person entitled thereto.

24 23. Trust funds were used to purchase Greenpoint Lane.

25 24. Petitioner, as Trustee of the Trust, has a claim to the proceeds of the sale of
26 Greenpoint Lane.

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NOTICE

25. The names and last known addresses of the beneficiaries of the Trust and all other persons who may be entitled to notice under Probate Code section 17203 are:

	Name and Address	Age	Relationship
1.	Darla DuPont c/o Scott Loblaw 123 Fake Street Suite 456 Greenpoint, CA	Adult	Wife of prior Trustee, Keegan DuPont; Possesses the sale proceeds at issue
2.	Keegan DuPont c/o Henry Zuckerkorn 321 Bluth Court Greenpoint, CA	Adult	Husband of Darla DuPont; Prior Trustee

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for:

1. An order of this Court identifying the Trust as the rightful owner of the proceeds of the sale of Greenpoint Lane;
2. An order of this Court directing Darla DuPont to return all such sale proceeds to the Trust;
3. That this Court enter judgment against Darla DuPont in favor of the Trust in the amount of twice the value of the proceeds of the sale of Greenpoint Lane;
4. An order of this Court pursuant to Probate Code section 859 awarding the Trust its attorneys' fees and costs; and
5. All other orders the Court deems appropriate.

DATED: _____

Hackard Law, a PLC

By: _____

MICHAEL A. HACKARD
Attorney for Petitioner Alfalfa Smith

VERIFIED PETITION FOR ORDER DETERMINING TITLE TO ASSETS

VERIFICATION

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2 I, ALFALFA SMITH, Petitioner in this matter, declare that I have read the
3 foregoing Petition, and know the contents thereof. I certify that the same is true of my
4 knowledge, except as to those matters that are therein stated upon information or belief, and, as
5 to those matters, I believe them to be true. If called to give live testimony to the foregoing facts I
6 would testify to the same.

7 I declare under the penalties and pain of perjury under the laws of the state of
8 California that the foregoing is true and correct, and that this Verification was signed by me on
9 the date so indicated herein.

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11 Dated: _____
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15 ALFALFA SMITH
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