

DEC 28 2022

Clerk of the Superior Court
By VALERIE HRONIS
DEPUTY CLERK

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

Debra J. Dolch, Conservator of the)	Case No. 18-PRO-00964, 16-
Estate of Thea Bacon, and Trustee)	PRO-00299
of the Thea B. Bacon Living Trust,)	JUDGMENT - Petition to
Petitioner)	Cancel Deed and for Damages
v.)	for Abuse of an Elder
James Sykes et al, Respondents)	Adult, Motion to Set Aside
		Order Approving Petition
		for Approval of Settlement
		Agreement

Petitioner, Debra J. Dolch, the Court-appointed conservator of the person and estate of Thea B. Bacon and the trustee of the Thea B. Bacon Living Trust filed a petition to cancel deed, for damages, and for various other relief on the basis of elder abuse by Respondent, James A. Sykes on August 30, 2018. The petition came on for trial before the Court, the Honorable Elizabeth M. Hill, presiding.

1 Michael G. Desmarais, Esq. of the Law Office of Michael G.
2 Desmarais and Steven P. Braccini, Esq. and Wendy C. Krog, Esq.
3 of Sheppard, Mullin, Richter & Hampton LLP appeared on behalf of
4 Petitioner.

5
6 Edward Thirkell, Esq. and Patrick McGovern, Esq. of the
7 Thirkell Law Group appeared on behalf of Respondent.

8 The matter was tried to the Court without a jury.
9 Presentation of evidence commenced on September 13, 2021 and
10 concluded on October 21, 2021. Following the filing of post-
11 trial briefs, the matter was submitted. The Court issued and
12 served a Tentative and Proposed Statement of Decision, to which
13 both parties objected. The Court concurrently served its final
14 Statement of Decision and a Proposed Judgment. Respondent James
15 Sykes filed timely objections to the Proposed Judgment on
16 October 4, 2022 and requested a hearing on the objections. On
17 October 5, 2022, Respondent James Sykes filed a Notice of Stay
18 of Proceedings reflecting an automatic stay entered by the
19 United States Bankruptcy Court in the Northern District of
20 California, case number 22-30531.

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24 On December 12, 2022, Petitioner's counsel Steven Braccini
25 and Wendy Krog forwarded a courtesy copy via e-mail copied to
26 all counsel of a Notice of Entry of Order Approving Stipulation
27 for Relief from Stay filed December 9, 2022 in the bankruptcy
28

1 action. The attached stipulation provided, in relevant part,
2 that "The automatic stay is lifted as to the State Action, and
3 Dolch's administration of the conservatorship of the Estate and
4 Trust" subject to enumerated conditions. On December 13, 2022,
5 Respondent Sykes' counsel Patrick McGovern replied to the
6 December 12 e-mail to alert that Court that Federal Rule of
7 Bankruptcy Procedure 4001(a)(3) mandated a 14-day automatic stay
8 on the stipulation lifting the bankruptcy stay, and that the
9 Court could not enter judgment in this action before December
10 24, 2022. Given the expiration of the mandatory stay under
11 Federal Rule of Bankruptcy Procedure 4001(a)(3), the Court now
12 denies Respondent Sykes' request for hearing on his objections
13 to the Proposed Judgment and enters judgment as follows.

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16 Good cause appearing:

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18 **THE COURT ORDERS, ADJUDGES AND DECREES THAT:**

- 19 1. The deeds to the property known as 700 Brewer Drive
20 executed on May 14, 2013 and February 26, 2015 are
21 ordered cancelled, and sole equitable title to the
22 property is awarded to Debra Dolch as trustee of the Thea
23 B. Bacon Living Trust;
24
25 2. A constructive trust is imposed on the following
26 property of James A. Sykes for the benefit of Debra J.
27 Dolch as trustee of the Thea B. Bacon Living Trust:
28

- 1 a) Swiss francs valued at \$615,256 transferred on April
2 30, 2012 and any accumulation thereon;
- 3 b) \$1,094,467.77 in funds transferred by check between
4 February 8, 2012 and May 31, 2016 and any accumulation
5 thereon;
- 6
7 c) Three motorcycles described as a 1959 Indian Chief By
8 Royal Enfield 700cc, a 1968 Royal Enfield 750, and a
9 Moto Guzzi 1000S;
- 10
11 d) Any devise to James A. Sykes contained in the Fourth
12 Amendment to the Amended and Restated Thea B. Bacon
13 Living Trust.

14 The constructive trust as to the foregoing property is
15 in favor of Debra Dolch as trustee of the Thea B.
16 Bacon Living Trust for the benefit of the contingent
17 residuary beneficiaries of the Fourth Amendment to the
18 Amended and Restated Thea B. Bacon Living Trust, as
19 follows: Best Friends Animal Society, Kanab, Utah
20 (20%); Ironwood Pig Sanctuary, Marana, Arizona (4%);
21 Farm Sanctuary, Orland, California (4%); California
22 Wolf Center, Julian, California (4%); Defenders of
23 Wildlife, Washington D.C. (4%); The Elephant
24 Sanctuary, Hohenwald, Tennessee (4%); The Jane Goodall
25 Institute, Arlington, Virginia (4%); The Animal Place,
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1 Vacaville, California (4%); American Anti-Vivisection
2 Society, Jenkintown, Pennsylvania (4%); Peaceful
3 Valley Donkey, Santa Clarita, California (4%);
4 Peninsula Humane Society, San Mateo, California (20%);
5 San Francisco SPCA, San Francisco, California (20%);
6 Trustor's friend Albert Bartridge (4%).
7

8 3. Pursuant to Estate of Dito (2011) 198 Cal.App.4th 791 and
9 Probate Code § 259(c), James A. Sykes is deemed to have
10 predeceased Thea B. Bacon and is thereby prohibited from
11 receiving any property, damages, or costs awarded under
12 the judgment in this action.
13

14 4. Compensatory damages in the amount of \$7,856,723.77 and
15 damages of \$15,713,447.54 pursuant to Probate Code § 859
16 for a total amount of \$23,570,171.31 shall be paid by
17 James A. Sykes to Debra Dolch as trustee of the Thea B.
18 Bacon Living Trust.
19

20 5. Pursuant to Welfare and Institutions Code § 15657.5(a),
21 the court orders reasonable attorney's fees and costs,
22 including conservator costs incurred during the
23 litigation of this action, payable from James Sykes to
24 Debra Dolch as trustee of the Thea B. Bacon Living Trust
25 in an amount to be determined by the probate court on
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1 further proceedings on a schedule as directed by the
2 Probate Judge.

3 6. Judgment in favor of Respondent James Sykes is entered on
4 the following causes of action:
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6 a. Fourth Cause of Action for Constructive Fraud

7 b. Fifth Cause of Action for Conversion

8 c. Sixth Cause of Action for Incapacity

9 d. Ninth Cause of Action for Injunction and
10

11 e. Tenth Cause of Action for Receiver

12 7. Judgment in favor of Respondent James Sykes is entered on
13 the Second Cause of Action for Breach of Fiduciary Duty
14 as to the following claims for damages:

15 a. Swiss Francs in the amount of \$615,256;

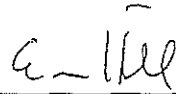
16 b. Cash and cash equivalents by check in the amount of
17 \$1,638,322; and
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19 c. Three motorcycles described as a 1959 Indian Chief
20 by Royal Enfield 770cc, a 1968 Royal Enfield 750,
21 and a Moto Guzzi 1000s.
22

23 8. Judgment in favor of Respondent James Sykes as to the
24 following denied claims for wrongfully acquired money and
25 property under any pleaded cause of action:
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- 1 a. Stocks and bonds transferred on September 14 and 14,
2 2004 from Thea Bacon's Silvercrest investment
3 account valued at approximately \$1,000,000;
4
5 b. Real property commonly known as 610 Dorchester Road,
6 San Mateo, California;
7
8 c. Real property commonly known as 613 Stanford Avenue,
9 Palo Alto, California;
10
11 d. Items of artwork acquired between November 24, 1997
12 and August 1, 1998, identified on Exhibit 275 as
13 Items 13, 62, 63, 66, 73, 76, 96, 112, 130, 146,
14 147, and 217 more particularly described in the
15 Statement of Decision;
16
17 e. Bank Accounts - Funds to J. Sykes in the amount of
18 \$543,854.23 as described in pp. 75-77 of the
19 Statement of Decision;
20
21 f. Bank Accounts - Unexplained Withdrawals in the
22 amount of \$1,771,321.00;
23
24 g. Bank Accounts - TB Bacon in the amount of
25 \$1,153,500.00;
26
27 h. Bank Accounts - Legal Fees in the amount of
28 \$108,603.00;
29
30 i. Credit Card Charges - Legal Fees in the amount of
31 \$6,338.00; and

1 DATED: December 28, 2022

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4 Elizabeth M. Hill
5 Judge
6 Superior Court of California,
7 County of San Mateo
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