

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: THE VOLFTSUN/LANDY :
TRUST LITIGATION :

VOLFTSUN and :
VOLFTSUN, [LANDY as personal :
representative, and as Next Friend and :
Guardian Ad Litem to T LANDY, :
LANDY and LANDY, :
minors, :

Plaintiffs, :

vs. : C. A.

: No. 4635-VCL

WILMINGTON TRUST COMPANY and WILLIAM :
SCOTT SIMONTON, :

Defendants. :

- - -
Chancery Courtroom No. 12C
New Castle County Courthouse
500 North King Street
Wilmington, Delaware
Wednesday, October 24, 2012
9:15 a.m.

- - -
BEFORE: HON. J. TRAVIS LASTER, Vice Chancellor.
- - -

EXCERPT FROM TRIAL TRANSCRIPT - VOLUME III
(RULINGS OF THE COURT)

CHANCERY COURT REPORTERS
500 North King Street
Wilmington, Delaware 19801
(302) 255-0521

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5 It's clear under the trust instruments
6 that the trustee here had an obligation to manage the
7 trusts. It's also clear that for a period -- really,
8 the entire time -- Wilmington Trust was trustee, that
9 there was an abdication of this duty. Wilmington
10 Trust did not manage these trusts. What they did
11 instead was treat the trusts as if they were actually
12 directed trusts, which they were not.
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This is not a situation dealing with a lack of prudence in management. So -- so this is not a case about whether the trustee properly bought General Motors stock instead of Cisco stock or whether the trustee improperly allocated 20 percent to equities instead of 30 percent to equities. This is a case about abdication.

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2 These factors, combined with the total
3 abdication of management over the trusts and the clear
4 obligation to manage the trusts that was reflected in
5 the trust instruments, as well as in the other
6 internal documents that Wilmington Trust had,
7 convinces me that this is an issue -- this is an
8 instance of bad faith. In other words, there was a
9 known obligation to manage and a abdication of that
10 well-understood duty.
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