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Court: DE Court of Chancery Civil Action

Judge: J Travis Laster

File & Serve

Transaction ID: 52004307

Current Date: Jul 09, 2013

Case Number: 4635-VCL

Case Name: CLOSED PROTECT ORD - CONS W 4636 VCL In Re: The Volftsun/Landy Trust
Litigation

Court Authorizer: Laster, J Travis

Court Authorizer

Comments:

For the reasons stated during the Court's ruling today, the Court awards fees and expenses of \$703,784.25.

/s/ Judge Laster, J Travis



EFiled: Jul 09 2013 11:39AM EDT
 Case No. 4635-VCL

GRANTED WITH MODIFICATIONS



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ALL RE:

THE VOLFTSUN/LANDY TRUST
 LITIGATION

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

Plaintiffs,

v.

WILMINGTON TRUST COMPANY, and
 WILLIAM SCOTT SIMONTON,

Defendants.

C.A. No. 4635-VCL

ORDER ON PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS

Upon consideration of *Plaintiffs' Motion for Attorneys' Fees and Costs* (the "Motion")

IT IS HEREBY ORDERED that the Motion is Granted. Plaintiffs are awarded from Defendants their attorneys' fees and costs in the total amount of \$984,464.97, plus post judgment interest at the legal rate. Judgment be, and the same hereby is, entered in the foregoing amount in favor of Plaintiffs and against Defendants Wilmington Trust Company and William Scott Simonton, jointly and severally.

 J. Travis Laster
 Vice Chancellor

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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It's clear under the trust instruments that the trustee here had an obligation to manage the trusts. It's also clear that for a period -- really, the entire time -- Wilmington Trust was trustee, that there was an abdication of this duty. Wilmington Trust did not manage these trusts. What they did instead was treat the trusts as if they were actually 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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