

Court of Appeals, State of Michigan

ORDER

In re Beatrice Rottenberg Living Trust

Docket No. 297984

LC No. 2006-303715-TV

Kathleen Jansen
Presiding Judge

E. Thomas Fitzgerald

Kirsten Frank Kelly
Judges

Pursuant to MCR 7.216(A)(4) and (9), the Court ORDERS that the parties shall be prepared to address the following issues at oral argument on Tuesday, March 12, 2013, at the 10:00 a.m. case call, and to bring any documents or other exhibits necessary to supplement the record with regard to these issues:

(1) Whether any of the checks written by Dr. Everett Newton Rottenberg, which make up the \$1,850,000 in question, were made payable to anyone other than the five corporate entities (i.e., Outdoor Resources, Inc., Carpenter Lake Development, Inc., Carpenter Ridge, Inc., Double JJ Resort Ranch, Inc., and American Appaloosas, Inc.);

(2) Whether there is any legal authority to support the proposition that a loan to a corporation can be recharacterized or reconstituted as a gift to an individual person, i.e., Joan Lipsitz;

(3) Whether Joan or Robert Lipsitz ever executed personal guarantees for any of the \$1,850,000 loaned by Dr. Everett Newton Rottenberg to the five corporate entities;

(4) Whether any legal authority supports the proposition that there remains a present or future interest in the loans to the five corporate entities following the corporations' bankruptcy and dissolution;

(5) How was the \$1,850,000 in question treated by the United States Bankruptcy Court and were any of the alleged loans made by Dr. Everett Newton Rottenberg discharged in bankruptcy (See United States Bankruptcy Court for the Western District of Michigan, Docket Nos. 08-06294, 08-06295, 08-06296, 08-06298, and 08-06299);

(6) Were any claims brought in the United States Bankruptcy Court disputing that the \$1,850,000 loaned by Dr. Everett Newton Rottenberg to the five corporate entities was anything other than a bona fide loan to one or more of the five corporations;

(7) Was the \$1,850,000 loaned by Dr. Everett Newton Rottenberg to the five corporate entities acknowledged as a corporate debt in the bankruptcy filings, was Dr. Everett Newton Rottenberg listed as a creditor in the bankruptcy proceedings, and what was the final disposition of the United States Bankruptcy court with respect to these alleged debts;

(8) Did the United States Bankruptcy Court have exclusive jurisdiction to resolve any and all claims concerning the character and disposition of the \$1,850,000 loaned by Dr. Everett Newton Rottenberg to the five corporate entities;

(9) Alternatively, if the United States Bankruptcy Court was not the exclusive forum for litigating the nature and character of the \$1,850,000 loaned by Dr. Everett Newton Rottenberg, was any claim related to the treatment or viability of the alleged loans barred by the six-year period of limitations or the doctrine of laches.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 28 2013

Date


Chief Clerk