

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2007-CA-02048

IN THE MATTER OF THE CONSERVATORSHIP OF HELEN NEAL SIMPSON

AUDREY S. MCGEE

Plaintiff-Appellant

V.

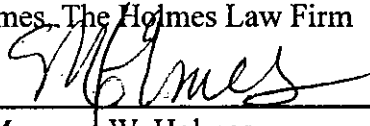
WILLIE NEAL SIMPSON

Defendant-Appellee

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

1. Plaintiff-Appellant: Audrey S. McGee
2. Defendants-Appellees: Kathryn Simpson and Willie Neal Simpson, co-conservators of Helen Neal Simpson
3. Trustmark National Bank, interpleader of subject funds
4. Alfred Simpson, son of Helen Simpson and beneficiary of funds;
5. Olivia Smith, daughter of Helen Simpson and beneficiary of funds
6. Counsel for Plaintiff-Appellant: J. Ward Conville, Conville & Conville, PLLC
7. Counsel for Defendant Appellee: Margaret W. Holmes, The Holmes Law Firm


Margaret W. Holmes,
Attorney of Record for Appellees

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STATEMENT OF THE ISSUES

ISSUE ONE: Whether the Chancellor erred in finding that Audrey Simpson McGee was acting in a fiduciary relationship with Helen Neal Simpson

ISSUE TWO: The Chancellor erred in finding Audrey Simpson McGee exercised undue influence over Helen Neal Simpson in order to force Helen Neal Simpson to change the beneficiary on her POD Accounts

155-60). A Judgment was entered by the Court on June 12, 2007, wherein the Court held that Audrey Simpson McGee was acting in a fiduciary relationship with Helen Neal Simpson and that Audrey Simpson McGee's influence went beyond what Helen intended and overcame the presumption that Helen's actions were her own. (R.E. 33-36; R. 161-164). The Chancellor set aside the account change and ordered that the funds be disbursed as they were prior to the account change. *Id*

A motion for Court to make findings of fact and conclusions of law was filed on June 21, 2007 by the Audrey Simpson McGee. (R.E. 70-71; R. 166-167). A Rule 59 motion to direct judgment in favor of Audrey Simpson McGee or in the alternative motion for new trial and a memorandum in support thereof were also filed on March 21, 2007. (R.E. 37-42; R. 168-172). Both motions were noticed for hearing on October 4, 2007. At the hearing, the Chancellor held a conference with the attorneys for each side and indicated that he would take the motions under advisement. The Chancellor entered an order denying entry of judgment or new trial on October 19, 2007. (R.E. 57; R. 187). The Chancellor's order did not comment on the motion for the court to provide findings of fact and conclusions of law, and none have been provided by the Court. A notice of appeal was filed by the Audrey Simpson McGee on November 13, 2007.

B. Statement of the Facts

Audrey Simpson McGee had a rocky, tumultuous relationship with her mother since childhood. (T. 7-8). Audrey was often arguing with her mother over money. *Id*. On many occasions, Helen Simpson would assist Audrey financially for a period of over twenty years. (T. 8-9). Audrey's siblings had a loving relationship with their mother and, although each of them lived out of state, all of Audrey's siblings would visit their mother often and assist her with her

needs. (T. 7-9).

The Simpson children had a half sister, Louise Ringham, who was fathered by their father, 12 years prior to his marriage to Helen Simpson. *Id.* Ms. Ringham was diagnosed with cancer and passed away in January, 2004. (T. 8-10). In December, 2003, three of Helen Simpson's children, Kathryn, Alfred and Olivia, visited Ms. Ringham in the hospital. (T. 9-10). Ms. Ringham's daughter asked the three children if they could be identified as siblings in Ms. Ringham's obituary. (T. 10).

Knowing that her mother, at times, had problems with Ms. Ringham, Olivia Simpson Smith returned to Helen Simpson's home after visiting Ms. Ringham and advised her of Ms. Ringham's daughter's request regarding the obituary. *Id.* Helen Simpson stated, "that was before my time, I did not have anything to do with that." *Id.* Ultimately, four of the five Simpson siblings, excluding Audrey Simpson McGee, consented to the use of their names in Ms. Ringham's obituary. (T. 11). Helen Simpson visited Ms. Ringham the next day and had a pleasant visit. *Id.*

A family gathering in January, 2004, was planned at Olivia Simpson Smith's house in New Orleans. The day prior to the gathering, Audrey Simpson McGee telephoned her sister, Olivia, and became very angry about the names appearing in the obituary of Ms. Ringham. (T. 12). Thirty minutes later, Helen Simpson called her daughter, Olivia, and was "a totally different person." Ms. Simpson advised Olivia not to visit Ms. Ringham any more and not to have anything to do with her. (T. 13).

A day or so after Louise Ringham's funeral, there was an altercation between Helen Simpson and her children, Kathryn and Alfred, at which time Helen Simpson pointed a gun at

her son's head and pulled the trigger; fortunately, the gun did not fire. (T.38). Afterwards, Helen Simpson did not speak to Olivia as often, and Olivia testified that her mother "became like another person." (T. 14). Helen Simpson threatened Olivia with trespass if she came to see her again. *Id.* Helen's behavior also changed drastically toward her son, Alfred, (T. 45-46) and daughter, Kathryn. (T. 36).

On September 8, 2004, Helen Simpson fell and was hospitalized in Hattiesburg. *Id.* Ms. Simpson was transferred from Forrest General Hospital and, for a time, Olivia and three of her siblings, and some of Ms. Simpson's friends did not know where Ms. Simpson was. *Id.* Then, Olivia Simpson Smith received a telephone call from her mother, who was at the time, "talking like her usual self." *Id.* Olivia had a nice conversation with her "tender loving mother," who asked her and her other three siblings to come visit her. *Id.* Helen Simpson was, at the time, a patient at Methodist Pendleton Hospital in New Orleans. (T. 16).

At the time Olivia had a bad cold or possibly the flu, so she waited until the next Sunday to visit her mother, Helen Simpson, in the hospital. She chose Sunday, during the worship hour, in hopes of avoiding a confrontation with her sister, Audrey Simpson McGee. *Id.* When Olivia arrived at her mother's hospital room, in late November, 2004, she was "astonished because my mother's condition had changed drastically." (T. 16-17). Helen Simpson's health diminished until her demise in March, 2005.

Prior to the illness and death of Louise Ringham, all five Simpson children were named as "Payable on death" (POD) beneficiaries. (T. 27, 32-34). Upon the split in the family that apparently arose during the last illness of Louise Ringham, the POD beneficiaries were changed solely to Audrey Simpson McGee. On or about February 9, 2004, Helen Neal Simpson executed

a change of account styling at Trustmark National Bank changing the beneficiaries on her POD accounts to Audrey Simpson McGee. At the time of her death, Ms. Simpson had four accounts or certificates at Trustmark, as follows:

1. Personal Money Markey Account No. 48000063578
Owned by Helen N. Simpson
Payable on death to Audrey McGee
Balance: \$30,166.99
2. Certificate of Deposit No. 0004811888, Account No. 94884374120
Owned by Helen N. Simpson
Payable on death to Audrey Faye Simpson McGee
Balance: \$6,671.54
3. Certificate of Deposit No. 0004811887, Account No. 9484374112
Owned by Helen N. Simpson
Payable on death to Audrey Faye Simpson McGee
Balance: \$4,045.08
4. Prime of Life Preferred Account No. 4800860972
Owned by Helen Simpson
Payable on death to Olivia D. Smith, Kathryn A. Simpson, Willie N. Simpson, Audrey McGee and Alfred Simpson
Balance: \$3,067.96

(R.E. 12-15; R. 44-47). After the co-conservators obtaining a temporary restraining order, Trustmark interplead the aforementioned funds into the court's registry.

At a time when Audrey Simpson McGee became angry with her siblings due to their actions involving their half sister, Louise Ringham, immediately followed by a complete change in Helen Simpson's conduct toward her other four (4) children, and during a period when Audrey McGee was in her mother's presence when Helen Simpson lashed out in anger toward her other four (4) children, the PODs on the above accounts were changed, deleting all children except Audrey. The changes to the accounts occurred soon after Helen Simpson pulled a gun on two of

her children, with Audrey standing beside her, making no effort to stop her mother. (T. 38). The altercation with the gun followed soon after Audrey had become angry with her siblings about the half sister and Helen Simpson immediately becoming angry as well. Preceding that was Helen and three of her children having a nice pleasant visit with Louise Ringham. Helen Simpson's personality and her conduct toward her four children (excluding Audrey) changed drastically while under close supervision of Audrey and while Audrey was concealing facts from her siblings.

SUMMARY OF THE ARGUMENT

The trial court committed no error in granting the relief requested by the conservators when it ruled that Audrey Simpson McGee unduly influenced her mother to change the beneficiaries on her four POD Accounts. There was ample evidence submitted by the conservators that Audrey Simpson McGee and her mother, Helen Neal Simpson had a confidential relationship in February 2004 when the POD accounts were changed. There was substantial evidence supporting the Chancellor's finding that Audrey Simpson McGee unduly influenced her mother. No other explanation was offered for the drastic change in Helen Simpson's conduct toward four (4) of her children, in light of the pleasant visit Helen had with Louise Ringham. Audrey McGee's presence, influence and conduct involving her mother's finances was the obvious reason Helen Simpson removed the names of four (4) of her children as PODs.

The trial court did not err in granting the relief requested by the Conservators and, respectively, this Honorable Court should affirm the trial court's judgment in favor of the Appellees.

ARGUMENT

I. STANDARD OF REVIEW

This Honorable Court applies the manifest error standard of review to a Chancellor's findings.

This Court considers decisions of chancellors under a limited standard of review. *McNeil v. Hester*, 753 So. 2d 1057, 1063 (¶21) (Miss. 2000). Specifically, "[t]he chancellor, as the trier of fact, evaluates the sufficiency of the proof based on the credibility of witnesses and the weight of their testimony." *Volmer v. Volmer*, 832 So. 2d 615, 621-22 (¶21) (Miss. Ct. App. 2002) (quoting *Fisher v. Fisher*, 771 So. 2d 364, 367 (¶8) (Miss. 2000)). As well as being the fact-finder, the chancellor is the sole judge of the credibility of witnesses when resolving discrepancies in a witness's testimony. *Murphy v. Murphy*, 631 So. 2d 812, 815 (Miss. 1994). Its findings will not be disturbed unless this Court finds that they were made in manifest error. *Richardson v. Cornes*, 903 So. 2d 51, 56 (¶18) (Miss. 2005). In other words, "where the record contains substantial credible evidence to support the chancellor's findings, we will defer to them." *Volmer*, 832 So. 2d at 622 (¶21). Errors of law, however, are reviewed de novo. *Cooper v. Crabb*, 587 So. 2d 236, 239 (Miss. 1991).

In the Matter of the Last Will and Testament of Boyles v. Tadlock, No. 2007-CA-00378-COA (Miss. App. 2008). The manifest error rule has also been stated, thusly:

This Court will not disturb the findings of a chancellor unless we find an abuse of discretion, an erroneous application of law, or manifest error. *Andrews v. Williams*, 723 So.2d 1175, 1177(¶ 7) (Miss. Ct.App.1998). Thus, if we find substantial evidence in the record to support the chancellor's findings, we will not reverse. *Wilbourne v. Wilbourne*, 748 So.2d 184, 186(¶ 3) (Miss.Ct.App.1999).

Webb v. Webb, 974 So.2d 274, 276 (Miss. App. 2008).

This Court applies a manifest error standard of review to a chancellor's decree of divorce. *Peters v. Peters*, 906 So.2d 64, 68 (¶12) (Miss. Ct. App. 2004). The chancellor's findings of fact will not be disturbed unless the chancellor's decision is manifestly wrong or unsupported by substantial evidence. *Mitchell v. Mitchell*, 823 So. 2d 568, 570 (¶7) (Miss. Ct. App. 2002).

In the case *sub judice*, the learned Chancellor had ample and substantial evidence to find

both that a fiduciary relationship existed, at relevant times, between Audrey Simpson McGee and her mother, Helen Simpson, and that Audrey exerted undue influence over her mother at the time that the subject bank accounts were changed.

II. ISSUE ONE: Whether the Chancellor erred in finding that Audrey Simpson McGee was acting in a fiduciary relationship with Helen Neal Simpson.

The judgment appealed from states that the Chancellor found in totality that Audrey was acting in a fiduciary relationship with Helen. The Court in it's Judgment further stated it's rationale for this finding,

"as a care giver, Audrey had a hand in handling Helen's affairs and one occasion signed Helen's name to a legal document and checks. Audrey received a \$4,000.00 benefit check from Helen's burial policy which she did not apply to Helen's burial expenses . . . Audrey was assisting Helen with her affairs when the accounts in question were created. . . Audrey had taken a close personal position giving her an element of control of Helen during time of illness and mental weakness and had driven her to the bank to perform the legal acts involved."

(R.E. 33-36; R. 161-164).

The court's conclusion that there existed a fiduciary relationship between Audrey Simpson McGee and Helen Neal Simpson was not erroneous, as suggested by Appellant. The question of the existence of a fiduciary or confidential relationship, which gives rise to a presumption of undue influence, was addressed in *Matter of Launius*, 507 So.2d 27 (Miss. 1987), as follows:

A presumption of undue influence "extends to every possible case in which a fiduciary relation exists as a fact, in which there is confidence reposed on one side, and the resulting superiority influence on the other." *Sheehan v. Kearney*, 82 Miss. 688, 21 So. 41 (1896).

The Mississippi law on fiduciary and confidential relationships is summarized in the decision of *Murray v. Laird*, 446 So.2d 575 (Miss. 1984), at page 578, as follows:

This Court held that a confidential relationship did not have to be a legal

one, but that the relation may be moral, domestic, or personal. *Hendricks v. James*, 421 So.2d 1031 (Miss. 1982); *Bourn v. Bourn*, 163 Miss. 71, 140 So. 518 (1932). The confidential relationship arises when a dominant over-mastering influence controls over a dependent person or trust, justifiably reposed. *Hendricks v. James*, supra, *McDowell v. Pennington*, 394 So.2d 323 (Miss. 1981), *Croft v. Alder*, 237 Miss. 713, 115 So.2d 683 (1959).

507 So.2d at 30-31. More recently, the Mississippi Supreme Court addressed the issue in *Wright vs Roberts*, 797 So.2d 992 (Miss. 2001).

This Court has long held that a confidential relationship does not have to be a legal one, but the relation may be moral, domestic, or personal. The confidential relationship arises when a dominant, over-mastering influence controls over a dependent person or trust, justifiably reposed. *Murray*, 446 So.2d at 578.

Whenever there is a relation between two people in which one person is in a position to exercise a dominant influence upon the other because of the latter's dependency upon the former, arising either from weakness of mind or body, or through trust, the law does not hesitate to characterize such relationship as fiduciary in character.

Madden v. Rhodes, 626 So.2d 608, 617 (Miss.1993).

¶ 18. This Court has enumerated several *factors to consider* in determining whether a confidential relationship exists:

(1) whether one person has to be taken care of by others, (2) whether one person maintains a close relationship with another, (3) whether one person is provided transportation and has their medical care provided for by another, (4) whether one person maintains joint accounts with another, (5) whether one is physically or mentally weak, (6) whether one is of advanced age or poor health, and (7) whether there exists a power of attorney between the one and another.²

(In Re Estate of) *Dabney*, 740 So.2d at 919. (Emphasis supplied)

Wright v Roberts, 797 So.2d at 998. See also *In the Matter of the Last Will and Testament of*

²Appellant limits her argument regarding these factors only as they would apply between her and her mother. Clearly, most of the factors, however, focus upon the ability of the grantor/testator to act independently versus the need for assistance from "others" or "another," not necessarily the person alleged to have exerted undue influence.

Boyles v. Tadlock, No. 2007-CA-00378-COA (Miss. App. 2008). No court opinion has held that all factors must be found to exist for a confidential relationship to exist. Furthermore, the opinions on this issue relied upon by Appellant herein merely uphold the chancellor's findings, thus finding no manifest error. Nevertheless, substantial evidence of most of the aforementioned factors substantiate the trial court's finding of a fiduciary relationship. Following is an application of the facts considered by the lower court as applied to the aforementioned factors.

(1) whether one person has to be taken care of by others: It was undisputed that Helen Simpson was regularly being taken care of by all of her children in the years leading up to January, 2004, at which time only Audrey McGee was giving care for her mother. (T. 6-7, 34-36, 41-42). Helen Simpson was not in full control of her mental capacities. (T. 52-57).

(2) whether one person maintains a close relationship with another: Helen Simpson maintained a close relationship with all of her children (T. 6-7, 34-36, 41-42) until, while in the company only of Audrey McGee, she became angry and belligerent with her other four children. (T. 10-13). From that point forward, including the date which Helen changed the POD beneficiaries, until November, 2004, (T. 15) only Audrey maintained a close relationship with her mother. (T. 14).

(3) whether one person is provided transportation and has their medical care provided for by another: Until January, 2005, Helen Simpson's daughter, Kathryn McFarland, who had moved back to Hattiesburg to help care for her mother after her husband passed away (T. 35), assisted with medical transportation, as did Helen's son, Alfred, when he visited, and her daughter, Olivia. *Id.* Alfred Simpson assisted his mother with medications. (T. 41-42). As stated above, Helen Simpson was regularly being taken care of by all of her children in the years

leading up to January, 2004, at which time only Audrey McGee was giving care for her mother. (T. 6-7, 34-36, 41-42).

(4) whether one person maintains joint accounts with another: There was no evidence of joint accounts. However, proof of each factor is not necessary for a finding of a fiduciary relationship.

(5) whether one is physically or mentally weak: No doubt that, at 85 years of age, Helen Simpson was physically and mentally weak. Helen Simpson's daughter, Kathryn McFarland, who had moved back to Hattiesburg to help care for her mother after her husband passed away (T. 35), assisted with medical transportation, as did Helen's son, Alfred, when he visited, and her daughter, Olivia. *Id.* Alfred Simpson assisted his mother with medications. (T. 41-42). As stated above, Helen Simpson was regularly being taken care of by all of her children in the years leading up to January, 2004, at which time only Audrey McGee was giving care for her mother. (T. 6-7, 34-36, 41-42). "She had problems; she was 85 years old." (T. 52). "I know from observing my mother she was not in full – she would do things that were atypical, just observations." (T. 54). "My mother was not fully in control of things. She was 85-years-old." (T. 56). Another very telling sign of Helen Simpson's mental weakness (as well as Audrey's undue influence) was the altercation of January 31, 2004, six (6) days prior to changing the POD beneficiaries. Helen's son, Willie Simpson, was visiting in Hattiesburg and telephoned his mother to let her know he was leaving to go back home. (T. 60-61). While talking to his mother, the connection was terminated. (T. 61). He re-dialed the number and asked his mother why she hung up on him, and his sister Audrey got on the line, prompting Willie to go to his mother's house. *Id.* When Willie arrived, Audrey's husband would not answer the door, but ultimately,

Audrey and Helen both opened the door, at which time, Helen pointed a gun at her son and pulled the trigger, though fortunately the gun did not fire. (T. 61-62). Willie drove down the street a bit, and his mother, Helen Simpson, followed and "put the gun to my head." (T. 62). Obviously, the Helen Simpson described as a loving caring mother, a school teacher, was not in control of her mental faculties as evidenced by this atypical criminal conduct which immediately followed Audrey McGee's boisterous and belligerent interference with Willie's conversation with their mother.

(6) whether one is of advanced age or poor health: Helen Simpson was 85-years-old and, as described above, in poor health.

(7) whether there exists a power of attorney between the one and another: There was no evidence of a power of attorney. However, proof of each factor is not necessary for a finding of a fiduciary relationship.

Although the volumes of evidence referenced above, supporting 5 of the 7 factors, are not acknowledged by Appellant in her brief, the record contains substantial evidence that, when viewed in a totality of circumstances, led the learned Chancellor below to find and conclude that a fiduciary relationship existed between Helen Simpson and Audrey Simpson McGee. Said finding and conclusion raised a presumption of undue influence and shifts the burden of proof to Audrey McGee to prove by clear and convincing evidence that she did not exert undue influence, which will be discussed below.

III. ISSUE TWO: Whether the trial court erred in finding Audrey Simpson McGee exercised undue influence over Helen Neal Simpson in order to force Helen Neal

Simpson to change the beneficiary on her POD account.³

As referenced above, upon a finding of a fiduciary relationship, the burden of proof shifted to Appellant, the required proof being clear and convincing, as discussed in *Matter of Launius*, 507 So.2d 27 (Miss. 1987).

The Mississippi law on fiduciary and confidential relationships is summarized in the decision of *Murray v. Laird*, 446 So.2d 575 (Miss. 1984), at page 578, as follows:

This Court held that a confidential relationship did not have to be a legal one, but that the relation may be moral, domestic, or personal. *Hendricks v. James*, 421 So.2d 1031 (Miss. 1982); *Bourn v. Bourn*, 163 Miss. 71, 140 So. 518 (1932). The confidential relationship arises when a dominant over-mastering influence controls over a dependent person or trust, justifiably reposed. *Hendricks v. James*, supra, *McDowell v. Pennington*, 394 So.2d 323 (Miss. 1981), *Croft v. Alder*, 237 Miss. 713, 115 So.2d 683 (1959).

Finally, an additional requirement was added in *Ham v. Ham*, 146 Miss. 161, 110 So. 583 (1926), in which the Court held that in order to overcome the presumption of undue influence in confidential relationship cases, grantor/testator must seek independent advice and counsel of a third party devoted wholly to the interests of the grantor/testator. See also, *In re Will of Moses*, 227 So.2d 829 (Miss. 1969).

Thus, our law may be summarized to state that *when the circumstances give rise to a presumption of undue influence, then the burden of going forward with the proof shifts to the grantee/beneficiary to prove by clear and convincing evidence of:*

- (1) Good faith on the part of the grantee/beneficiary;
- (2) Grantor's full knowledge and deliberation of his actions and their consequences; and
- (3) Advice of (a) competent person, (b) disconnected from the grantee and

³There is no requirement that the exertion of undue influence amount to a "forcing" of another to act or not act, which implies the use of physical force. Further, there was a change of numerous beneficiaries, as opposed to merely one, and the changes were made to four (4) accounts, not only a single account, as Issue Two, as phrased by Appellant, suggests.

(c) devoted wholly to the grantor/testator's interest. *Wofford v. Wofford*, 244 Miss. 442, 142 So.2d 188 (1962); *Croft v. Alder*, 237 Miss. 713, 115 So.2d 683 (1959), *Thomas v. Jolly*, 251 Miss. 448, 170 So.2d 16 (1964).

Will of Polk, supra, at 817. (Emphasis supplied)

507 So.2d at 30-31. Audrey Simpson McGee offered absolutely no evidence whatsoever as to factors (2) and (3) above, and her evidence as to factor (1) was self-serving, at best. Furthermore, the medical records submitted in evidence contain a nurse's note of concern of undue influence by Audrey, and Helen Simpson mouthing to the nurse that she was "worried about her money that Faye⁴ took." (Emphasis supplied)(T. 105). By use of the past tense, Helen Simpson was referring to Audrey's past conduct. Further, Helen's son, Alfred, testified, without objection, "[T]his whole thing originated from someone who was overbearing and intimidating and caused this whole thing to escalate." (T. 54-55). He also testified, without objection, "[i]t was unfair how she exploited my mother, an 85-year-old lady." (T. 56). Finally, the proximity of events surrounding the anger expressed by Audrey to Olivia, followed 30 minutes later by Helen's anger toward Olivia, and similar circumstances surrounding the gun altercation while Audrey was with her mother, immediately after Audrey interfered with Helen's phone call with Willie, is circumstantially indicative of Audrey's undue influence.

"[W]here the record contains substantial credible evidence to support the chancellor's findings, we will defer to them." *Volmer*, 832 So. 2d at 622 (¶21). *In the Matter of the Last Will and Testament of Boyles v. Tadlock*, No. 2007-CA-00378-COA (Miss. App. 2008). The Chancellor below had sufficient direct and circumstantial evidence to conclude that Appellant exerted undue influence. More importantly, however, Appellee failed to carry her burden of

⁴ Audrey was also referred to by family as Faye.

proof, by clear and convincing evidence, to overcome the presumption of undue influence.

CONCLUSION

The trial court committed no error in granting the relief requested by the conservators when it ruled that Audrey Simpson McGee unduly influenced her mother to change the beneficiaries on her four POD Accounts. There was ample evidence submitted by the conservators that Audrey Simpson McGee and her mother, Helen Neal Simpson had a confidential relationship in February 2004 when the POD accounts were changed. There was substantial evidence supporting the Chancellor's finding that Audrey Simpson McGee unduly influenced her mother. No other explanation was offered for the drastic change in Helen Simpson's conduct toward four (4) of her children, in light of the pleasant visit Helen had with Louise Ringham. Audrey McGee's presence, influence and conduct involving her mother's finances was the obvious reason Helen Simpson removed the names of four (4) of her children as PODs.

The trial court did not err in granting the relief requested by the Conservators and, respectively, this Honorable Court should affirm the trial court's judgment in favor of the Appellees.

Respectfully Submitted, this the 9th day of July, 2008.

WILLIE NEAL SIMPSON AND
KATHRYN SIMPSON

BY: 

MICHAEL C. BAREFIELD

CERTIFICATE OF SERVICE

I, Margaret Holmes, attorney for Appellees, hereby certify that I have served a true and correct copy of the foregoing document, via First Class U.S. Mail, postage prepaid, to:

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Honorable James H. C. Thomas, Jr.
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THIS the 9th day of July, 2008


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