

JUSTICE WATCH John Pacenti

## Grandchildren going to court over real estate trust money

Jacob C. Cohen was a prominent real estate developer, investor and hotelier. He owned numerous apartment buildings in New York City and prominent Miami Beach hotels including the Deauville, Crown and Saxony.

When Cohen died in 1974, his estate was split among his six children, including Ada Turkish Trask.



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Two of Cohen's grandchildren are preparing for trial today in Miami-Dade Circuit Court in a fight over what their mother left

behind when she died in 2010 at 97.

The plaintiff, Carole Brody, 75, lives with her daughter in a two-bedroom apartment in Aventura and buys what she needs on her monthly Social Security stipend. The brother, defendant Arthur S. Turkish, lives in a luxury home in Broken Sound Club, one of the most prestigious country clubs in Boca Raton.

Brody's complaint claims her brother, as trustee of a trust established by his mother for his and his sister's benefit, violated his fiduciary duty by doling out gifts to himself and draining it to about \$300,000.

"We allege that absent the improper conduct, there would be in excess of \$1.5 million left," said attorney **Bruce Katzen**, a partner at Kluger, Kaplan,



J. ALBERT DIAZ

**Attorney Bruce Katzen represents a woman who claims her brother, as trustee of a trust established for their mother, violated his fiduciary duty by doling out gifts to himself and draining the trust to about \$300,000.**

Silverman, Katzen & Levine in Miami that is representing Brody along with attorney **Josh Rubens**, an associate at the firm.

Katzen said it is believed Trask inherited from her father more than \$20 million.

The complaint states that the trust was depleted \$3.3 million between 2005 and 2007, but Miami-Dade Judge **Maria Korvick** has limited the trial to only the last 2½ years of Trask's life, not

allowing Brody to contest a quarter century of stewardship.

She also ordered on Dec. 6 the brother to return half of \$1 million he withdrew from a trust in July 2008 to pay his mother's gift tax liability.

In the time frame in dispute during trial, Katzen said the brother received distributions of \$406,000 and \$52,500 in fees.

In the breach of trust complaint, Brody claims her brother made 22 dis-



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Miami-Dade Judge Maria Korvick has limited the trial to only the last 2½ years of the trust benefactor's life.

tributions to himself between January to June 2009.

"The distributions were not made fairly and impartially but rather were made so as to deliberately deplete the trust of its assets" before his sister could collect her half, the lawsuit states.

Also in the mix is an interest in a parking garage near Madison Square Garden which when the lease runs out in about two decades could be worth as much as \$10 million.

In many respects Cohen's grandchildren are fighting for money that may not be seen until their own grandchildren are grown.

Katzen said the brother "enjoys the Boca Raton country-club lifestyle" while his client "has a very low-level lifestyle. She lives with her kids. She can't afford her own home."

Attorney **Jack A. Falk Jr.**, a partner at Dunwoody White & Landon in Miami, represents Turkish.

"They make a lot of allegations, but the fact is every penny of what happened with the mother's trust was accounted for," Falk said. "There was no improper activity whatsoever."

## PLAYING FAVORITES

Turkish claims five family trusts al-

low him to get paid for his work as trustee and withdraw money from those accounts to live on—all above board with his sister's knowledge.

There is little dispute that Trask played favorites among her three children. Another daughter, Bernice Klein, was written out her will completely after a fight with her mother, and her

relationship with Brody was admittedly strained at times—though Brody claims it was because of her brother.

Turkish made it his job as an adult to manage his mother's estate and provide for her care, according to court documents from both sides. Trask was confined to a wheelchair in the last decade of her life.

Brody "was as quiet as a mouse while her mother was alive, and then only after she was dead did she start complaining about things she agreed to years before," Falk said. "She did a complete 180-degree turnaround."

Korvick rejected a motion by Brody to file a second amended complaint, which outlines a fractured family.

One matter of contention raised in the second amendment complaint is Trask's mind-set. Brody claims her mother had diminished mental capacity from 1997 to her death. "In her diminished mental and physical capacity, Ada was more susceptible to Arthur's dominance and exercise of undue influence," the amended complaint reads.

Falk said Korvick rightly barred the latest amended complaint. He said Trask conferred with attorneys and managed her affairs right up to a few weeks before her death.

"It is an absolute absurdity they would even file that document," Falk said.

## DISTRIBUTIONS QUESTIONED

Falk said Brody had her attorneys look over trust accountings and she approved all withdrawals.

Katzen said his client thought her brother's withdrawals reflected he was managing millions of dollars and didn't think he was depleting principle. He said it doesn't matter that Turkish had the authority to write checks to himself from the account.

"Even though he had the authority to give gifts to himself, his duty was to his beneficiaries. It is our position that by its very nature he is breaching his fiduciary duty by making a distribution," Katzen said. "He is invading the principle that he has a duty to Carole to protect."

Falk said Brody would be mistaken to believe Trask inherited more than \$20 million.

Her money came in "drips and drabs" as real estate holdings formerly owned by her father were sold off. She would get a portion of whatever interest her family had in those buildings, sharing the windfall with her siblings.

And Trask had a penchant for the good life as well, he said.

"She liked to eat out. She had a very nice standing of living. She was used to that from the time she was young," Falk said.

He said the trial could come down to a fight over a paltry amount: money his client took over his \$9,500 monthly fee for managing the trusts.

Katzen said Brody's allegation aren't unusual when a family member controls the purse strings of an estate.

"It's a lapse of judgment of the grantor, of the parent," Katzen said. "However, courts should look at cases like this with strict scrutiny because of the inherent conflict of interest."

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