

STATE OF NEW YORK  
SURROGATE'S COURT: COUNTY OF NEW YORK

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In the Matter of the Estate of

File No. 1140/01

ETHEL JACOBSON

Deceased

RESPONSE TO  
PETITION TO IMPOSE A  
CONSTRUCTIVE TRUST

-----X  
STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK )

MARLEE-JO JACOBSON, being duly sworn, deposes and says:

1. I live at 20 East 9<sup>th</sup> Street Apt 15A, New York City, N.Y. 10003-5944. I am one beneficiary of the estate of Ethel Jacobson, who died January 3, 2001 2:45 A.M.

2. I submit to the Court's request that I respond to a Petition to Impose a Constructive Trust by October 29, 2001. The petition was dated August 22, 2001 and originally filed by Thomas Biow Esq. I choose to do and agree with nothing until the Court decides what I should agree with. Also, as suggested by the DA of Special Prosecutions I am choosing this opportunity to communicate directly with you. Why?

3. I hired Arthur S. Gold Esq. from Chicago and paid him a \$10,000 retainer to represent my interests. Mr. Gold decided that it was unimportant that I be notified of the Executor's defaulting on the mortgage and maintenance payments of the coop at 11 5<sup>th</sup> avenue from my Mother's date of death in January. The Executor only decided to become Executor in early April 2001. I only learned of the default in July because a friend suggested I contact the Managing Agent of that building. Having knowledge of the default in January, Gold insisted that I sign papers agreeing to financial terms dictated by the executor in July. Besides defaulting the executor would only release the apartment to me, under terms that I perceived as financially exploitative and unreasonable under these circumstances. These terms were also not in alignment with complete disclosure to me of how the estate would be settled. Gold can respond by saying "She didn't want to know what was going on." He would be correct I did say that – but when I asked him about the default and why he did not tell me he said: "it wasn't important!" I did ask him to resign, reimburse \$5000 and call it even – he refused, said I fired him and that I owed him \$12,000 because of time spent. **See exhibit A two letters from Herb Bockstein Esq. to Arthur Gold. One dated April 25, 2001.**

4. I then hired Thomas Biow Esq. He was paid a \$5000 retainer. After reviewing

the facts he said something like: “I know a surrogate judge that loves stories like this.” He changed his mind and insisted on going with terms dictated to me by the Executor. I told him to file whatever he started and do nothing beyond that. WHY? So he could complete what he started with honor. We disagreed on how I wanted to be represented so he resigned. He then wanted me to sign a document saying that I chose to represent myself in the trust issue. I refused because it was NOT true. I told him that I sent a letter to the DA and included a copy of his request. I asked him for a detailed accounting of how his time was spent and what I received for my money. I am still waiting! **See Exhibit B letter to the DA.**

**5.** Someone from the DA advised me to copy the complete file from the court and get my story front of the Judge. That made sense and you are reading it. I reported Shelby Zarlin to the DA a few years ago on a charge of abusing my Mother. **See Exhibit C called Prominent New York Estate Attorneys Defend Fraud.**

**6.** I have been unable to get honest complete answers from either sibling in over 10 years. Nothing changed after my Mother died, which is also disclosed in Exhibit C.

**7.** Because of my legal mistakes and the temporary loss of \$15,000 I asked the Executor to authorize Shelby to send me \$2500 a month until the estate is settled, or ask Shelby to return jewelry to the apartment so I can sell it. Contents of the apartment were left to me. (Antiques and other sundries were shared with siblings and/or their children.) Both of my requests have been denied.

**8.** I also have a perspective on how the executor should be managing this situation. I believe any tax burdens should be negotiated with the IRS and cast off on those responsible for creating this situation. I find it wrong to destroy everything our Father worked for and the financial security of an entire family and the next generation for personal gain. I also believe all people should be held accountable for their actions. **See Exhibit D Settlement Plan**

**9.** To respond to allegations made by Shelby Zarlin against me **See Exhibit E.**

**10.** I would also ask the Court to supervise the Executor and Shelby from this point forward.

**11.** I would like to be notified and invited to any discussion between the court other two beneficiaries.

Cc: Diane Mota, Shelby Zarlin, Herb Bockstein Esq., Arlene Harris Esq., Thomas Biow Esq. , Art Gold Esq.

## VERIFICATION

STATE OF NEW YORK )

SS.:  
COUNTY OF NEW YORK )

MARLEE-JO JACOBSON , being duly sworn, deposes and says:

I am the petitioner herein and have read the foregoing Petition and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe to be true.

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Sworn to before me

This                    day of \_\_\_\_\_ 2001

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Notary Republic

Marlee-Jo Jacobson  
20 East 9<sup>th</sup> Street Apt 15A  
New York City, N.Y. 10003-5944  
212-777-3862

September 25, 2001

Elizabeth Loewy ADA  
New York County District Attorney's Office  
1 Hogan Place - 7<sup>th</sup> Floor Special Prosecution Unit  
New York City, N.Y. 10013

Dear Ms. Loewy:

Hope this finds you and yours in the best of health and spirits. I would like to refer the enclosed situation of my inheritance to the DA's office for investigation and prosecution if your findings "Prove" that my perceptions of reality are accurate. According to the Manhattan DA's web site:

- Special Prosecutions is the right unit
- It's a white collar crime
- I am a victim
- I have been emotionally and financially abused
- I don't need an attorney
- I want it investigated and charges filed
- I have all evidence supporting my case, including the opposition's justification for her actions in print. (One statement filed to the court – there are also depositions that can be obtained from the Executor.)

Respecting proper channels, since there have been no phones it afforded opportunity to write and ask if you can expedite this process by directing me to the right person.

**Objective:** To get my inheritance as directed by the will of Ethel Jacobson WITHOUT the superfluous interference of what other people think I should be entitled to. This includes exemption from all expenses caused by other people's unnecessary activities. I want to:

- File charges against Shelby Zarin and whomever else is recommended by the DA's office.
- Ask the court to supervise the executor Diane Mota.
- I want guidance as to what constitutes responsible legal practice and what roles the attorney's have here. The two I originally hired are gone. One I fired the other chose to retire himself. Enclosed is his last communication to me. He filed a proceeding in court that is supposed to be heard Sept 28. I told him I would send it to the DA with the entire case.
- My legal costs were \$15,000. It appears that time spent by both attorneys had no relevance to accurately expediting an efficient distribution of assets according to the will. Both took actions according to their perceptions even AFTER receiving input from me. Results caused more harm and took more time than what would have happened if they had integrated information given to them by me. I am not sure what constitutes earning money, but I need clarity. If I am right, I want my legal fees reimbursed, if wrong Ill let it go. **(I do want clarity!)**
- The executor's attorney also has a role. That role is BAD advice to the executor that could have cost everything my father worked for. However the executor contributed to that, so again clarity is needed.

Finally but most important I need the court to request \$2500 a month from what will be mine for living expenses until all this is all settled or until I can sell a coop left to me. The executor refuses to release it unencumbered by unfair exploitation of funds and refuses to honor my request for living expenses. Details supporting this distasteful situation are readily available. Ill bring all with me and cheerfully follow your directions as to my next step. Your time and attention is appreciated.

With Kind Regards,  
Marlee-Jo Jacobson  
212-777-3862

CC: Diane Mota, Shelby Zarin, Arlene Harris Esq. Thomas Biow Esq. Arthur Gold Esq.

## Exhibit E - Response to Shelby's Allegations against me

### FACTS that can easily be substantiated if necessary.

# 3 - Not true – I just want my inheritance

# 4 -Jacobson Commodities Inc. and every other potato business closed because of a potato default. Jack Simplot's greed was the cause. It is a landmark case in commodities and public knowledge. After my father died my life started over. If necessary I can contact the clients and ask for written documentation as to the state of my character.

I went to work for Richard Securities Inc. for two years and was invited to join Merrill Lynch in January 1980 by Lewis Jacobson. (I can find him if necessary). Earnings were over \$150,000 annually from the year my father died until I left Merrill in March 1984 to start Phoenix Futures Inc. I only left Merrill Lynch because they decided to start Broadcorp Capital Management. Merrill took what we built and no longer wanted reps to build institutional business. If absolutely necessary I would ask the head of institutional sales at Merrill to tell you in his words what he remembers as truth. Also only if absolutely necessary I would also ask other industry professionals to do the same. I have one magazine article and several other industry write-ups that prove my whereabouts during those times. I am easy to track. Everything I do is public knowledge. Arthur Gold Esq. also helped me with a law-suit against Patrick Petroleum FOR my Mother on behalf of Jacobson Commodities Inc in 1980. We won \$75,000.

There was no POA in 1988 my Mother was healthy. Ask David Gendelman Esq. my Mothers Attorney – he is alive and well. Her will was written in 1986 I think (If not look at the date) She showed it to me and I knew David had it.

The Marine Midland Bank story – Ask Diane and her husband Gene if they were present at my "trial". The judges and jury was Shelby, her husband, Diane and her husband. My Mother was sitting in the corner under her bird picture perfectly quiet while they accused me of stealing money from her. With the bank book in hand there they were, all of them. (She had to have given them the bankbook it was the only way they could have gotten it) I said "She gave it to me" my Mother said nothing. After they left – wanting to murder my own Mother I said "What are you doing?" Very quietly she said: "You defended yourself well, good."

# 5 - I wasn't there

# 6 - Not true – Diane and I consistently asked Shelby if she wanted help she consistently said NO - over and over and over she always said no. She prevented everyone from doing anything. Shelby's abuse made and continues to make life miserable for those around her.

# 7 - I wasn't there - and this has no relevance to the POA from 1989, and responsibilities as a fiduciary. The divorce story only evolved because the issue of \$300,000 and starting value of the estate was brought up. It was never mentioned once in the past 25 years. (Shelby and my Mother had a difficult relationship since Shelby was born ask anyone and everyone )

# 8 - NOT TRUE the case with the DA is public record. Abuse issue proves that my Mother did not have control of her finances.

# 9 - My Mother went to Florida for one year after my Father died by herself. I believe this was somewhere between 1979 and 1980. She had no mental problems leaving her own home! The people at the Brevoort East and her best friend Martha Grundstein can substantiate this FACT! Shelby also had my Mother committed to a nursing home against her will! Croton on the Hudson – Shelby's abuse is easily documented -

In March 1992 I was in the hospital with back surgery. Shelby did find the surgeon for me. I filed bankruptcy in January 1992. I salvaged between \$10,000 and \$15,000 not much more. I had an undiagnosed under-active thyroid for over five years or more that causes impaired judgment. Medical records of Peter Zeale MD and others that followed will support the statement.

Diane told me to get food stamps, so I did – only because of food stamps was I able to have the back the surgery, it was paid for by Medicare. Thelita Saunders was my caseworker. I received between \$2000 and \$2500 a month from 1992 until when my Mother died. I signed a note for the money. The checks

were originally \$2500 a month then Shelby called one day and said I'm cutting your check to \$2000 a month. There is stayed until about the last quarter of 2000 because I needed health insurance. Then it was for \$2000 plus the cost of insurance.

#10 - I had ONE membership # 658 that was mine since I started working for my Father.(That badge number is also part of a photo from a magazine write-up. (That was 23 years ago – memberships were as low as \$16,000 because of the potato default and before Oil got started). My Mother gave me membership #108 while I was at Merrill Lynch. She called one day and said I'm giving you your father's membership. # 108. I was also given one cotton membership. (The value and membership records can be gotten from all exchanges for that time period.)

I never had access to any income or any of my Mothers dealings other than what I did for her with the help of HER accountant and Lawyers. I never had any business schemes either. I worked at Richardson Securities and Merrill Lynch. This can easily be proven. My Mother kept her own seat leases and business dealings quite well after my father died. She has an impeccable relationship with Jean LeBretton. Jean was in charge of memberships for the exchange at that time. This can also be verified partially by David Gendelman Esq. as can my relationship with my Mother. David also helped my mother find an accountant. So ask him! **As for destroying my Fathers business See # 4 above.**

#11 Shelby had POA since 1989 – NYMEX staff and members can verify any involvement Shelby has with the exchange. I am sure the exchange lives well without Shelby's involvement. See # 7 & 8 – Shelby bulldozed and brutalized my Mother into giving her what she wanted. I watched my Mother cower behind a chair as Shelby threatened to put her into a nursing home, which she finally did against my Mothers will.

# 12 See # 11 above – I can ask past and present board members of the exchange for truthful statements if necessary. Having Power of Attorney for an estate, especially that of Mrs. George C. Jacobson is enough to have ONE voice among many in any affair of the exchange.

# 13 partially true-and partially false - Why would someone give away the sterling YET not the dishes and stemware that were always used with it?

# 14 - All things bought for me and cash are clearly accounted for with receipts on an excel file that the Executor has! My employment and professional history is described above as is my bankruptcy and cause! (I made flower pots from 1993 until 1996 and recuperated from massive self devastation) so WHAT? Any help I got I am grateful for and I hurt no one!

# 15 - Broken ankle YES - asking for HELP NO! Both Diane and I offered again offers were refused.

#16 - I know only of one estate planner - because it was the only ONE I went to. My Mother never needed income or mortgages taken out on the coop.

#17 – My Mother paid for Brian's education. My Mother also gave David Greene \$100,000. She sold a membership to accommodate those gifts. Records are public.

If any money from the mortgage went to School for Courtney – it's no big deal, just say so! Gene also suffered from massive devastation – bankruptcy. He lost his businesses. He was NOT yet up and Diane may have needed the help! I was not there and have no knowledge of truth.

#18 -Shelby was aware of a will because I told her and Diane. They both had access to David Gendelman's tel # any time they wanted it.

Shelby bled the entire estate and refused to transfer the coop to my name or do anything that would resemble acting in accordance with the directives of a will. Diane participated – and is aware of the entire scenario.