



IN THE CIRCUIT COURT FOR JEFFERSON COUNTY, ALABAMA

LUTHER STRANGE, Attorney)
General for the State of Alabama,)
)
Plaintiff,)

VS.)

Case #: _____

SMITH SCHOLARSHIP)
FOUNDATION CENTER; AHRIAN)
TYLER DUDLEY, Executive Director/)
Chief Legal Counsel of the Smith)
Scholarship Foundation Center;)
STEWART R. DUDLEY, Director/)
Secretary and member of the Board)
of Directors of the Smith Scholarship)
Foundation Center; C. R. DUDLEY,)
member of the Board of Directors)
of the Smith Scholarship Foundation)
Center; LEWIS G. BURKS, member)
of the Board of Directors of the Smith)
Scholarship Foundation Center; and)
CLARK A. COOPER, in his capacity)
as a member of the Board of Directors)
of the Smith Scholarship Foundation)
Center;)
Defendants.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This suit challenges the Smith Scholarship Foundation Center's ("the Foundation") refusal to award scholarships in accordance with the terms of the Mignon C. Smith Living Trust ("the Trust").

2. Plaintiff alleges that the Foundation, the Trustee and the Co-Trustee violated and continue to violate the terms of the Trust by prohibiting scholarship recipients from attending the

University, College or accredited School of their choice as long as the institution is within the State of Alabama.

3. Plaintiff brings this civil action for judicial review against the above-named Defendants, the Foundation and other officials (hereinafter collectively referred to as the “Defendants” or “the Foundation”) responsible for administering the Foundation and awarding scholarships.

4. The Plaintiff, Alabama Attorney General Luther Strange, brings this suit to protect the interest of “indefinite charitable beneficiaries” of the Smith Scholarship who are adversely affected by the Foundation’s failure to comply with the expressed terms of the Trust. Neal v. Neal, 856 So. 2d 766, 780 (2002).

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to Ala. Code § 19-3B-203, which grants jurisdiction to circuit courts in proceedings brought by a trustee or beneficiary concerning the administration of a trust, and § 19-3B-202, which grants personal jurisdiction over a trustee who accepted such trusteeship of a trust whose settler was a resident of the State at the time of the trust’s creation and by accepting the trusteeship of a trust having its principal place of administration in this State.

6. Venue is proper under § 19-3B-204.

PARTIES

7. Plaintiff, Attorney General Luther Strange, brings this case on behalf of the people of the State of Alabama, and the *cestuis que trust*. The Attorney General, as chief legal officer of the State, brings this action pursuant to authority vested in him by Title 25, Chapter 15 of the Code of Alabama (1975), which authorizes him to “institute and prosecute, in the name of

the state, all civil actions and other proceeding necessary to protect the rights and interests of the state.” Ala. Code § 36-15-12. The Attorney General also brings this suit to enforce the charitable purposes of the Trust that did not identify the *cestuis que trust*, who are adversely affected by the Foundation’s failure to comply with the terms of the Trust. Neal v. Neal, 856 So. 2d 766, 780 (2002).

8. Defendant, the Smith Scholarship Foundation Center, is a tax-exempt private foundation under the Internal Revenue Code 501(c)(3). It was established in 2005 by the Living Trust of Mignon C. Smith, who is now deceased. Its purpose is to grant scholarships that allow students to attend the University, College or accredited School of their choice as long as the institution is within the State of Alabama.

9. Defendant AHRIAN TYLER DUDLEY (Mrs. Dudley) is the Executive Director/Chief Legal Counsel of the Foundation and the Attorney, Trust Protector and Co-Trustee of the Trust. Mrs. Dudley is responsible for the Foundation’s policy of prohibiting scholarship recipients from attending the University, College or accredited School of their choice.

10. Defendant STEWART R. DUDLEY (Mr. Stewart Dudley) is the Director/Secretary of the Foundation, a member of the Board of Directors of the Foundation and the Trustee of the Trust. Mr. Stewart Dudley is responsible for the Foundation’s policy of prohibiting scholarship recipients from attending the University, College or accredited School of their choice.

11. Defendant C. R. DUDLEY, JR. (Mr. C. R. Dudley) is a member of the Board of Directors of the Foundation. Mr. C. R. Dudley is responsible for the Foundation’s policy of

prohibiting scholarship recipients from attending the University, College or accredited School of their choice.

12. Defendant LEWIS G. BURKS, JR. (Mr. Burks) is sued in his capacity as a member of the Board of Directors of the Foundation. Mr. Burks is responsible for the Foundation's policy of prohibiting scholarship recipients from attending the University, College or accredited School of their choice.

13. Defendant CLARK A. COOPER, JR. (Mr. Cooper) is sued in his capacity as a member of the Board of Directors of the Foundation. Mr. Cooper is responsible for the Foundation's policy of prohibiting scholarship recipients from attending the University, College or accredited School of their choice.

ALLEGATIONS

14. On June 25th, 2004, Mignon C. Smith created the Mignon C. Smith Living Trust.

15. Article IV of that Trust authorized the creation of a 501(c)(3) charitable organization for the purpose of providing scholarships to Alabama students, stating as follows:

Rest, Remainder, Residue:

After the distribution of the specific bequests outlined herein, and after the payment of all administrative expenses and taxes, my Trustee shall use all the rest, remainder and residue of the Trust to endow The J. Craig and Paige T. Smith Scholarship Foundation. The Foundation shall be established and administered by my Trustee and my Attorney, named herein, who shall have the Foundation qualified as a tax exempt private foundation under the Internal Revenue Code 501(c)(3) or such applicable successor provision. The Foundation shall be for the purpose of providing scholarships to deserving Alabama students for the attendance to any University, College or accredited School in the State of Alabama. My Trustee and Attorney shall prepare a Statement of Purpose and Mission of the Foundation to reflect the Grantor's desire to help deserving Alabama students achieve their goals of obtaining a higher education that will prepare them for their future and help establish them as independent and productive members of our Alabama community. The Foundation shall acknowledge that the Grantor's father J. Craig Smith quietly assisted many students, who were often the daughters of mill workers, in their quest to obtain an

20. According to the Trust, “the Foundation shall grant scholarships that allow students to attend the University, College or accredited School of their choice as long as the institution is within the State of Alabama.” (Ex. A, p. 7)

21. The terms of the Trust establish that the scholarship recipients may choose to attend a University, College or accredited School as long as the institution is within the State of Alabama. Id.

22. The terms of the Trust do not allow the Foundation to limit scholarship recipients to arbitrarily selected “qualified” Universities, Colleges or accredited Schools.

23. Ala. Code § 19-3B-201 states that a “court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person,” and that such proceedings may “interpret or construe the terms of the trust” and “direct a trustee to refrain from performing a particular act.”

24. The Alabama Attorney General is “the proper party to enforce the charitable or otherwise beneficent purpose of the trust.” Neal v. Neal, 856 So. 2d 766, 780 (2002). Furthermore, if the trustees of a charitable trust are not following the terms of that trust, “the State, upon the relation of the Attorney General, [is] a proper party to institute” a suit to enforce those terms.” State ex rel. Carmichael v. Bibb, 173 So. 74, 79 (Ala. 1937).

25. The Defendants violated and continue to violate the terms of the Trust by prohibiting scholarship recipients from attending the University, College or accredited School of their choice as long as the institution is within the State of Alabama.

REQUESTS FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court order the following relief:

1. Plaintiff respectfully requests that this Court declare that Defendants have violated and continue to violate the terms of Mignon C. Smith's Living Trust;
2. Plaintiff respectfully requests that this Court enjoin Defendants from prohibiting scholarship recipients from attending the University, College or accredited School of their choice as long as the institution is within the State of Alabama;
3. Plaintiff respectfully requests that this Court enjoin Defendants from requiring scholarship applicants to divulge which University, College or accredited School that they plan to attend other than indicating on their application that the institution that they plan to attend is accredited and located within the State of Alabama; and
4. Plaintiff respectfully requests that this Court grant Plaintiff such further relief as this Court deems just, proper, and equitable.

Respectfully submitted on this 12th day of November, 2013.

/s/ J. MATT BLEDSOE

J. MATT BLEDSOE
Assistant Attorney General
Counsel for the Plaintiff

OF COUNSEL:

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Please serve Defendants via Sheriff as follows:

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Ahrain Tyler Dudley
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Stewart R. Dudley
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