

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 12 OF 2020()

IN THE MATTER OF SECTION 8 OF THE SUCCESSION LAW (2006 REVISION)

AND IN THE MATTER OF THE ESTATE OF EDUARDO ENRIQUE SANCHEZ
(DECEASED)

BETWEEN:



- (1) CHERISH BRITTANY SANCHEZ
- (2) TRAVIS COREY SANCHEZ
- (3) CHELSEA ELIZABETH SANCHEZ



AND:



MARIA CHRISTINA SANCHEZ LEE

Respondent

PETITION

TO THE GRAND COURT

The humble petition of (1) Cherish Brittany Sanchez (the **First Petitioner**), and (2) Travis Corey Sanchez (the **Second Petitioner**), and (3) Chelsea Elizabeth Sanchez (the **Third Petitioner**), (together, the **Petitioners**) shows that:

Background

- 1 Mr Eduardo Enrique Sanchez (the **Deceased**) was born on 23 June 1948 in Belize City, Belize, and died in Texas, United States of America on 4 November 2016.
- 2 During his lifetime, the Deceased had two wives, Ms Winsome Hill (**Ms Hill**) and Ms Donna D'Amato (nee Sanchez) (nee Glidden) (**Ms D'Amato**). His third partner, Ms Dana Bellini (**Ms Bellini**), has commenced proceedings in Texas (described below), claiming that she is the Deceased's common law wife.
- 3 The deceased had nine children as set out in the below table:

Partner	Children	Date of birth
Winsome Hill	Maria Christina Sanchez	unknown
	Mario Enrique Sanchez	14 May 1976
Donna D'Amato (nee Sanchez) (nee Glidden)	Edward Cline Sanchez	4 January 1985
	Cherish Brittany Sanchez	10 June 1986
	Travis Corey Sanchez	12 July 1989
Dana Bellini	Chelsea Sanchez	4 March 1994
	Tyler Sanchez	14 December 2001
	Mackenzie Sanchez	29 August 2004
	Julia Sanchez	21 July 2009

- 4 The Deceased made a will dated 10 June 1998 (the **Will**). As at the date of the Will the Deceased had six children, being Cherish, Travis and Chelsea Sanchez (the First, Second and Third Petitioners), Maria Christina Sanchez (the Respondent), and Mario Enrique Sanchez and Edward Cline Sanchez. These six children are named in the Will (the **Named Beneficiaries**).
- 5 The other three of the Deceased's children, namely Tyler Sanchez, Mackenzie Sanchez and Julian Sanchez (together, the **Younger Children**) were born after the Deceased's execution of the Will.

The Probate Proceedings

- 6 Probate was granted by the Grand Court of the Cayman Islands (the **Court**) on 19 December 2016, and the Estate vested in the Respondent as personal representative on that date (the **Grant of Probate**) in Cause No: P164 of 2016 (the **Probate Proceedings**).
- 7 The Respondent thereafter held, and continues to hold, the assets comprised within the Estate on the terms set out in the Will.
- 8 In her supporting affidavit dated 9 December 2016 the Respondent stated that "*I am currently unsure as to the estimated value of [the Deceased's] estate*". To date the Respondent has not provided any valuation of the Estate to the Petitioners.

- 9 In her Inventory of Estate dated 9 December 2016 the Respondent stated that the Deceased's real estate was "*Unknown*".

The Deceased

- 10 The Deceased was born in Belize on 23 June 1948 and died in Corner Stone Hospital in Houston, Texas, Fort Bend County Texas, United States on 4 November 2016. During his lifetime he lived in Belize, the Cayman Islands and the United States.
- 11 The Deceased first moved to the Cayman Islands in 1968/69 The Deceased obtained Caymanian status on 2 November 1977, and was naturalised as a British Dependent Territories citizen on 5 January 1995. The Deceased established a successful chain of fast food restaurants in the Cayman Islands.
- 12 From 1989 the Deceased started to spend more time in the United States and in or around 1991 he met Ms Bellini in Houston Texas and began a relationship with her. In the summer of 1992, Ms Bellini moved to Grand Cayman with the Deceased. In May of 1998, Ms Bellini returned to Houston Texas with their daughter Chelsea and during this time the Deceased was making frequent trips between Grand Cayman and Houston where he shared an apartment with Ms Bellini and Chelsea. In approximately 2000, Ms Bellini and Chelsea moved back to Grand Cayman for a couple of years but around the summer of 2002 she moved back to Houston Texas permanently with their children. The Deceased leased an apartment with Ms Bellini and their two children, and spent time between Grand Cayman and Houston until he purchased their first home in Katy Texas in November of 2003.
- 13 From 2003 onwards the Deceased started spending more and more time in Texas. By 2005, he had retired from running his Companies in Cayman and purchased a second home in Katy Texas with Ms Bellini. Residing primarily in Houston, the Deceased only made a few trips back to Grand Cayman between 2005-2008, once for a funeral and once to attend his son's high school graduation. He did not return to Cayman again until 2014 for two short visits before he became ill in late 2014. He died in Houston on the 4 November 2016.

The Will

- 14 Clause 1 of the Will revokes all former wills and testamentary dispositions made by the Deceased.
- 15 Clause 2 appoints the Respondent (the Deceased's eldest child) as the sole executrix and trustee of the Will.
- 16 The Will defines "*My Trustee*" to refer to the Respondent, as the named executrix, as well as "*the trustee of my will for the time being whether additional or substituted*".

17 Clause 3 of the Will provides:

"I GIVE DEVISE AND BEQUEATH the whole of my estate both real and personal including any property over which I have at my death any general or special power of appointment or disposition SUBJECT to the payment of my just debts funeral and testamentary expenses (herein called "my residuary Estate") to my children namely, MARIA CHRISTINA SANCHEZ, MARIO ENRIQUE SANCHEZ, EDWARD CLINE SANCHEZ, CHERISH SANCHEZ, TRAVIS CORY SANCHEZ AND CHELSEA ELIZABETH SANCHEZ in equal shares and I DIRECT that in such event that any of my children have not yet attained the age of 21 years clauses 4 through 6 shall take effect."

18 Clause 4 bequeaths the residuary Estate to the Trustee *"to sell call in and convert... and to invest the proceeds thereof...upon the following trusts:*

(a) *Subject to the above provisions and subject as hereinafter provided to hold the Trust Fund upon trust absolutely both as to capital and income for such of my children living at my death as shall attain the age of 21 years and if more than one in equal shares ...*

(b) *To pay out of the income from the Trust Fund to any beneficiary hereof who has not yet attained the age of 21 years such portion of the income of the Trust Fund and that my Trustee shall in his absolute discretion from time to time think fit to provide for the maintenance education and advancement of any such beneficiary..."*

19 Clause 5 bestows certain powers upon the Trustee including the power to invest trust money, the power to insure, the power to pay income or capital to the guardian of a beneficiary under 18, and the power to engage the Trustee where the Trustee is *"an attorney or other person engaged in any profession or business"*.

20 Clause 6 indemnifies and exculpates the Trustee against any liabilities incurred in connection with carrying out the trusts under the Will, absent dishonesty or wilful breach of trust.

21 Clause 7 of the Will requires that it be construed and take effect according to the laws of the Cayman Islands and that the trusts of the Will be administered in the Cayman Islands.

Assets in the Estate

22 Assets of the Estate are located in the Cayman Islands, Texas, Florida and Belize. However, the Petitioners believe (by reason of their knowledge of their father's affairs whilst he was alive) that the substantial majority of the assets comprised within the

Estate (and those which represent the vast majority of the value of the Estate) are likely to be located in the Cayman Islands.

23 The Petitioners believe that the most valuable assets in the Estate are the Deceased's direct and indirect shareholdings in three Cayman Islands' ordinary resident companies, namely:

- (a) Fast Foods Company Ltd. (**Fast Foods**);
 - (b) KFC Restaurants of Cayman Ltd. (**KFC Cayman**);
 - (c) International Fast Foods Ltd. (**IFF**); and
 - (d) Quiz Restaurants of Cayman Ltd (**Quiz**),
- (together, the **Shares** and the **Companies**, respectively).

24 The majority of the value of the Shares is generated by the underlying businesses of the Companies which include four restaurant franchises operating in Grand Cayman (together, the **Franchises**).

25 The Respondent and her husband, Robert J Lee (**Mr Lee**), are also direct shareholders in Quiz in their personal capacities, each of them holding 25% of the shares thereof. The Respondent and her husband are also directors of each of the Companies.

26 The corporate documents for the Companies (provided by the corporate attorneys for the Companies) show the shareholdings in each of the Companies, and the composition of their boards of directors, as set out in the below table:

Company	Shareholders (as at 17 October 2018)	Directors (as at 17 October 2018)
KFC Restaurants of Cayman Ltd.	<ul style="list-style-type: none"> • The Respondent (on behalf of the Estate): 100 shares <p><i>Total shares issued: 100</i></p>	<ul style="list-style-type: none"> • The Respondent (appointed 27 January 1998) • Mr Lee (appointed 5 September 2017)
International Fast Foods Ltd.	<ul style="list-style-type: none"> • The Respondent (on behalf of the Estate): 900 shares <p><i>Total shares issued: 1000</i></p>	<ul style="list-style-type: none"> • The Respondent (appointed 30 March 1994)

		<ul style="list-style-type: none"> Mr Lee (appointed 5 September 2017)
Quiz Restaurants of Cayman Ltd.	<ul style="list-style-type: none"> Fast Foods Company Ltd: 50 shares Mr Lee: 25 shares The Respondent: 25 shares <p><i>Total shares issued: 100</i></p>	<ul style="list-style-type: none"> The Respondent (appointed 14 November 2002) Mr Lee (appointed 14 November 2002) Fast Foods Company Ltd. (appointed 14 November 2002)
Fast Foods Company Ltd.	<ul style="list-style-type: none"> The Respondent (on behalf of the Estate): 1000 shares <p><i>Total shares issued: 1000</i></p>	<ul style="list-style-type: none"> The Respondent (appointed 4 January 1993) Mr Lee, appointed 5 September 2017

- 27 The Petitioners believe that the Shares may hold a value of at least several million dollars, and are likely to be the most valuable asset in the Estate. Other known assets in the Estate but of comparatively lower value include real estate, motor vehicles and jewellery (together, referred as the **Other Assets**).
- 28 In addition to being a director of each of the Companies, the Respondent has managed the business of the Companies since the year 2000, yet she asserts that she does not know the value of the Companies. She has also claimed in correspondence dated August 2018 that she does not have a detailed knowledge of their operations.
- 29 The Petitioners believe that the Respondent and Mr Lee derive their personal income from the profits earned by the Companies (and the underlying businesses held within them).
- 30 The Respondent has refused to provide to the Petitioners (i) any or any adequate accounting, information or documentation detailing the value or the financial position of the Companies or the underlying Franchises (including any of the financial statements for the Companies or the Franchises) and (ii) details of any distributions made to shareholders or dividends declared in respect of the Shares.

The Bellini Claim

- 31 The Third Petitioner's mother, Ms Bellini, commenced proceedings in 2017 in the Probate and County Courts in Fort Bend, Texas, United States, claiming, amongst

other things, that she is the Deceased's common law wife in accordance with the laws of Texas. In those proceedings, Ms Bellini asserts that the Deceased was domiciled in Texas at the time of his death. Ms Bellini also asserts that she, and the Younger Children are beneficially entitled to an interest in the Deceased's estate (the **Bellini Claim**).

32 As regards the Younger Children, it is alleged in the proceedings that as a matter of the laws of Texas, they are entitled to an equal share of the Estate.

33 These proceedings have been ongoing for two years and little information has been provided to the Petitioners by the Respondent as to (i) the status of the proceedings (ii) the merits of the claim and any defence(s) (iii) the possible remedies available to Ms Bellini in the event her claim succeeds and (iv) what impact, participation in these proceedings will have upon the Estate.

34 It appears to the Petitioners that the Respondent is intending to administer the Estate and to defend the Bellini Claim on the basis that the Younger Children do not have any interests under the Will. However, it appears to the Petitioners at least arguable that all the children of the Deceased have an interest under the Will. It is not known whether the Respondent has taken any Cayman Islands legal advice as to the proper meaning and effect of the Will as regards the rights of the Younger Children. If she has taken such advice this has not been shared with the Petitioners. If it is indeed the case that the Younger Children have a right to inherit under the Will it would appear to be an improper use of Estate assets to fight a claim in a foreign jurisdiction which seeks to establish the Younger Children's rights in the Estate. At the very least it would seem there may be scope for amicable resolution. If attempts have been made for an amicable resolution, then the Respondent has not made the Petitioners aware of this, nor have the Petitioners been consulted about any attempts at achieving a resolution.

35 It appears that the Respondent has not sought directions from the Cayman court as to the correct approach to be taken concerning: (i) the domicile of the Deceased and the effect thereof upon the administration of the Estate; (ii) the Bellini Claim; and (iii) submission to the jurisdiction of the Courts of Texas.

Standstill in Administration of the Estate & failure to provide information

36 Since the Grant of Probate was made in December 2016, the Respondent has: (i) completely failed to fulfil or only partially complied with her statutory or other duties as executrix as regards her obligation to administer the Estate, and (ii) failed to make any material progress in the administration of the Estate such that the administration is now at a complete standstill.

37 The Respondent has also failed to provide any adequate information about: (i) the assets in the Estate (particularly as regards the Companies), and (ii) her administration

of the Estate, despite numerous requests for such information by the Petitioners. In particular, attorneys for the Petitioners have written a number of substantial and detailed letters to the Respondent requesting documents and information (described below), yet the Respondent has failed to reply to the requests with any information or at all. Specifically, the Petitioners have requested and the Respondent has failed to provide:

- (a) any or any adequate information in respect of her conduct of the administration of the Estate;
- (b) a complete list of assets in the Estate (including details of their value, location and status)
- (c) copies of legal advice obtained by the Respondent for the benefit of the Estate and paid for from assets of the Estate, or by the Respondent;
- (d) accounts of (or any information whatsoever in respect of) profits, income, distributions, or dividends earned or received or otherwise attributable to the Shares;
- (e) any proposals for obtaining an independent and up to date valuation of the Estate (particularly the Shares);
- (f) financial statements or information in respect of the Franchises sufficient to enable the Petitioners to ascertain their value;
- (g) proposals for ascertaining the beneficial class under the Will
- (h) proposals as to how to make distributions of the assets to the beneficiaries;
- (i) details as to how the assets are being invested, managed or dealt with pending distribution in accordance with the Will;
- (j) any or any substantive information or updates about the Bellini Claim, including the Respondent's intended approach to the claim and the costs being expended thereon; and
- (k) details of any discussions with Ms Bellini and the prospect of reaching a settlement.

Conflict of Interest

- 38 The Respondent has a conflict of interest, between her personal interests in retaining the benefit of the assets in the Estate (on which she relies for personal income) and

her obligations to efficiently administer and distribute the assets of the Estate in accordance with the law and the terms of the Will for the benefit of all beneficiaries.

39 Moreover, it is in the Respondent's interests to keep the beneficial class to as few people as possible given she is to receive a share of the Estate, which would reduce were the beneficial class to increase in number. Her decisions not to seek directions to determine the composition of the beneficial class, to defend the Bellini Claim, and instead to assume that the class includes only the Named Beneficiaries, may be influenced by this conflict of interest.

40 The Respondent is not necessarily to be criticised for finding herself in this position of conflict, but she has failed to act appropriately in response once this conflict has been pointed out to her. This is a relevant factor in the decision of the Petitioners to seek the replacement of the Respondent with an independent personal representative.

The Respondent's obligations

41 The Respondent was required to prepare and file in the Probate Registry a true and perfect inventory of all the assets in the Estate within six months of the Grant of Probate (ie by 18 June 2017).

42 The Respondent was obliged under section 5 of the Succession Law (2006 Revision) (**Succession Law**) to realise and administer the Estate within one year of the Grant of Probate (ie by 18 December 2017).

43 The Respondent was obliged under section 7 of the Succession Law to file estate accounts with the Clerk of the Court within one year of the Grant of Probate (ie by 18 December 2017) showing the receipts and distributions of the Estate duly supported by affidavit.

44 The Respondent is obliged to determine who falls within the beneficial class, and to ascertain, value and distribute the assets in the Estate in equal shares to the beneficiaries.

45 The Respondent is required to seek the direction of the Court as regards complex issues or in respect of proceedings in which the Estate has become involved. Due to the complex facts of this matter concerning the issue of domicile and the Bellini Claim, the Respondent is obliged to obtain legal advice or seek directions from the Court of the Cayman Islands in respect of:

- (a) the Deceased's domicile at the date of his death;
- (b) the impact of domicile on the administration of the Estate;
- (c) ascertainment of the beneficiaries of the Estate; and

(d) what steps to take in respect of the Bellini Claim.

46 It is not known to what extent the Respondent has complied with any or all of the above obligations and duties. If she has complied with them she has not informed the Petitioners and she has not shared with them the advice or information relating thereto, despite requests for her to do so. The Petitioners therefore have no means of holding the Respondent to account with respect to her duties as executrix to act in the best interests of the beneficiaries for whom she holds the assets of the Estate.

Complexity of the Administration

47 From the above it is clear that there a number of complex issues arising in the administration of this Estate, which may not have been anticipated by the Deceased at the time he executed the Will and selected the Respondent to act as sole executor:

- (a) the Deceased had three different wives and nine children by those wives; only six were alive at the date of his Will;
- (b) the composition of the beneficial class is in issue, and whether it includes all the Deceased's children or only those named in the first part of clause 3;
- (c) the assets of the Trust are of significant value and located in a number of different jurisdictions and legal and administrative steps need to be taken in multiple jurisdictions;
- (d) a claim has been brought by the Deceased's self-claimed common law wife in a different jurisdiction to the jurisdiction which, in accordance with the terms of the Will governs the administration of the Will. Consequently, the Estate is potentially subject to the laws of more than one jurisdiction and therefore conflict of laws, forced heirship and firewall issues arise.

48 The Will expressly anticipates at clauses 2 and 5(d) that the "Trustee" may be changed or substituted and also expressly anticipates that a substitute Trustee may be a professional with resources available to him to assist in the administration of the Estate and the "carrying out of its trusts".

49 The Petitioners respectfully suggest that these complex circumstances now require an independent professional with experience administering high value and complex estates involving conflicts of laws and contentious issues.

Removal of the Executrix

50 By reason of:

- (a) The respondent's neglect of her legal duties in administering the estate;

- (b) the complexity of the issues surrounding the administration of the Estate;
- (c) the irreconcilable conflict of interest in which the Respondent finds herself, and her failure to step down once this conflict and its relevance became apparent;
- (d) the lack of any / any meaningful progress and current standstill in the administration of the Estate;
- (e) the prejudice being caused to the beneficiaries by a lack of any or any proper accounting;
- (f) the consequent loss of trust and confidence in the Respondent and her ability to effectively and fairly administer the Estate; and
- (g) the need for an independent professional with the experience and resources to effectively administer a complex, high value and multi-jurisdictional estate of this kind which is the subject of foreign litigation,

the Petitioners have commenced these proceedings for the replacement of the Respondent with an independent and professional personal representative to take over the administration of the Estate.

Relief Sought

- 51 A full account is required of the administration of the Estate to date.
- 52 In accordance with section 8 of the Succession Law (2006 Revision) any beneficially interested person may petition for the removal of a personal representative found responsible for neglect or misconduct in the management or administration of an estate and their replacement by another suitable person. The Petitioners are beneficially entitled to an interest in the Estate and may therefore petition for the removal of the Respondent.
- 53 The Respondent has been guilty of neglect within the meaning of section 8 of the Succession Law, the best particulars of which are described above.
- 54 In all the circumstances outlined above it is clearly in the interest of the proper administration of the Estate, the furtherance of the aims of the Will, and in the best interests of the beneficiaries as a whole, that the Respondent be removed as personal representative of the Estate and an independent, professional be appointed in her place.

Further, a full account is required of the administration of the Estate to date and the replacement of the personal representative

- 55 Genesis Trust and Corporate Services Ltd ("**Genesis**") is a professional and independent professional trustee service provider with appropriate experience and staff with relevant qualifications suitable to act as personal representative of the Estate.
- 56 Genesis Trust and Corporate Services Ltd, by its Director Marcus Parker has consented to act as the personal representative of the Estate as a replacement to the Respondent.

Your Petitioners therefore humbly pray:

- 1 That the Respondent be removed as executrix of the Estate and that Genesis Trust and Corporate Services Ltd be appointed to act as personal representative in her place.
- 2 That the Respondent be required to furnish all financial statements, documents and accounts relating to the Estate including those showing;
 - (a) the assets of the Estate, the location and the valuations thereof;
 - (b) any liabilities of the Estate;
 - (c) the Respondent's conduct of the business of the Companies;
 - (d) the receipts and distributions out of the Estate;
 - (e) her dealings with any property comprised within the Estate; and/or
 - (f) the property which has come into the hands of the Respondent as personal representative of the Estate or into the hands of any person or persons by the order of or for the use of the Respondent.
- 3 That the Respondent be required to file an affidavit supporting such information and producing the relevant supporting receipts, bank statements, financial statements for the Companies and the Franchises and any other records.
- 4 That the Respondent be required to provide to the Petitioners copies of all legal advice obtained in respect of the Estate obtained by her as executrix and/or paid for by the Estate.
- 5 That the Respondent provide an account of her dealings with and participation in the Bellini claim;
- 6 That the Respondent be required to pay to the new personal representative all funds forming part of the Estate directly or indirectly held by her;

- 7 That the Respondent shall be ordered to make payment to the Estate any sums found due and owing on the taking of the above accounts and enquiries;
- 8 That the costs of this Petition be paid by the Respondent.
- 9 Such other relief as the Court may deem appropriate.

AND your Petitioner will ever pray etc

DATED this 22nd day of January 2020



Ogier
Attorneys for the Petitioners

NOTE: This petition is intended to be served on the Respondent, c/o Brooks & Brooks, Two Artillery Court, Shedden Road, George Town, PO Box 1355, Grand Cayman KY1-1108.

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on _____ at _____

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman KY1-1106, telephone 345 949 4296.