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Order on Defendant Jenner & Block's Motion to Dismiss (ALTHEIDA MAYFIELD)

Elizabeth E. Long
Superior Court of Fulton County

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFIC
OCT 12 2009
DEPUTY CLERK SUPERIOR COUI
FULTON COUNTY, GA

ALTHEIDA MAYFIELD, as an Individual; and as Trustee of the TRUST; et al.,

Plaintiffs,

v.

SUSSEX FINANCIAL GROUP, INC. et al.,

Defendants,

Civil Action File No. 2009CV166048

ORDER ON DEFENDANT JENNER & BLOCK'S MOTION TO DISMISS

Defendant Jenner & Block, LLP ("Jenner & Block") has filed a Motion to Dismiss. The applicable standard is "whether the allegations of the complaint, when construed in the light most favorable to the plaintiff with all doubts resolved in the plaintiff's favor, disclose with certainty that the plaintiff would not be entitled to relief under any state of provable facts." Baker v. McIntosh County Sch. Dist., 264 Ga. App. 509, 509 (2003); Croxton v. MSC Holding, Inc., 227 Ga. App. 179, 180, (1997); Mathews v. Greiner, 130 Ga. App. 817,821(1974).

Plaintiffs consist of Altheida Mayfield, a co-trustee and a beneficiary, and other beneficiaries of the Mayfield Family Trust ("the Trust"). The Trust was set up by Curtis Lee Mayfield, Jr. and organized under the laws of the state of Georgia. Mr. Mayfield was a famous American singer-songwriter and record producer who died in 1999. This case arises out of controversies over the handling of the Trust assets by Defendants.

Marvin Heiman ("Heiman") served as a co-trustee of the Trust from 1999-2003. Defendant Arnold Harrison ("Harrison") is an attorney in Chicago, Illinois who performed legal services for the Trust. Harrison has been a partner with the law firm Jenner & Block from June 2001 to the present.

ok/

Most of Plaintiffs' Complaint centers on a loan transaction which closed in May 2000. In that transaction, the Trust received proceeds from a loan to be repaid from the royalties from certain copyright interests held by the Trust. Plaintiffs allege that all of the Defendants owed them fiduciary duties with respect to the work they performed on behalf of the Trust, and that Defendants have breached those fiduciary duties. Plaintiffs are also alleging breach of trust.

Defendant Harrison began working at Jenner & Block in June, 2001, more than a year after the securitization transaction which is the heart of Plaintiffs' Complaint. Jenner & Block did no work of any sort related to the Trust before June, 2001.

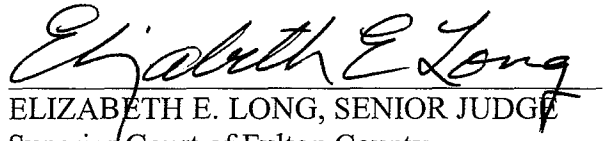
Plaintiffs state vehemently that they are not claiming that Jenner & Block committed legal malpractice; they also stated at oral argument that they are not claiming fraud or conspiracy. Rather, they contend that there was a breach of fiduciary duty or breach of trust by Jenner & Block.

With respect to the claim of breach of fiduciary duty, Plaintiffs contend that Jenner & Block was under a duty to disclose to Plaintiffs that the actions in 2000 of Heiman, Harrison and others with respect to the securitization transaction were harmful to Plaintiffs' interests. There is no claim that Jenner & Block had any knowledge in 2000 of any actions concerning the Trust and there is no indication nor claim that Jenner & Block knew anything about the securitization transaction after Harrison joined the firm. Jenner & Block did legal work for the Trust after June 2001 involving the dissolution of Custom Classics, Inc., the formation of Custom Classics, LLC, and the supply of certain information to other Defendants who filed tax returns on behalf of the Trust. Nowhere in the Complaint nor the Amended Complaint do Plaintiffs allege any wrongdoing with respect to this work except for what might, by a stretch of imagination, form the basis of a legal malpractice claim. But Plaintiffs are not claiming legal malpractice.

Turning to the claim for breach of trust, Plaintiffs' claim that Jenner & Block was delegated duties of the Trust by co-trustee Heiman, but nowhere in the Complaint nor the Amended Complaint do they say what trust duties were delegated. Thus, this claim must be dismissed. Jenner & Block performed legal work for the Trust, it was not a trustee.

Jenner & Block's Motion to Dismiss is hereby **GRANTED.**

SO ORDERED this 12th day of October 2009.



ELIZABETH E. LONG, SENIOR JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

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