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July 1, 2014

The Hon. H.D. Black, Jr., Senior District Judge  
c/o Robertson County District Clerk  
P.O. Box 250  
Franklin, Texas 77856

Re: *Calvert Historical Foundation v. John C. Paschall*,  
Cause No. 11-09-18,927-CV (82<sup>nd</sup> District Court)

Judge Black:

With this letter I have enclosed formal notice that I will no longer be representing the Calvert Historical Foundation (“CHF”) in the case listed above. By copy of this letter to the district clerk, I ask that the notice and this letter be included in the case file.

As the Court knows, Bryan F. Russ, Jr. and John C. Paschall have been trying for more than three years to sabotage the civil case against Mr. Paschall. Over the last few months, I heard various reports that Mr. Russ and Mr. Paschall were trying to get their cronies to join the foundation and take control of it. Yesterday's filings appear to be coordinated between Mr. Russ and Jennifer Caudle, the purported president of CHF, so I have little doubt that she is, in fact, one of his operatives. (The Court will recall that Mr. Russ previously tried to get one of his cronies appointed as receiver in an attempt to gain control of the litigation against Mr. Paschall).

I have been planning to move to New York, and I was worried about finding another attorney who would be willing to represent CHF free of charge, as I have. Fortunately, I no longer have to worry about that. Nonetheless, more than \$86,000 remains in the court's registry, Mr. Paschall is still the executor of Marium Oscar's estate, and several matters are still outstanding, *e.g.*, contempt charges, motions for sanctions, and discovery that is being withheld in defiance of the Court's orders. I have copied the Office of the Attorney General on this letter, because it has the “certain duty” to protect the interests of charitable trusts, *see Lokey v. Texas Methodist Foundation*, 479 S.W.2d 260, 265 (Tex. 1972). Since it appears that Ms. Caudle and her allies have decided to abandon the litigation against Mr. Paschall, the Court may wish to encourage OAG to intervene in this case pursuant to Chapter 123 of the Texas Property Code.

I further recommend that the Court proceed with the appointment of Paul Gardner as receiver or substitute trustee. Mr. Gardner could hire counsel to prosecute the case against Mr. Paschall if he deemed it beneficial, and that attorney could prosecute the remaining matters, including the contempt charge. Alternatively, the Court could appoint

a special prosecutor for the criminal contempt charge, *see In re Wightman*, 1998 WL 877494 (Tex.App. - Dallas 1998), or the Court could ask the district attorney or attorney general to prosecute.

On the subject of contempt, the Court should know that, despite the June 5, 2014 Order, Mr. Russ and Mr. Paschall still have not produced the bank records that would show which bank account Mr. Paschall used to pay Mr. Russ. The Court will recall that Mr. Paschall claimed in his interrogatory responses that there were no responsive bank accounts. If Mr. Russ was paid with a personal check, as he recently admitted, that means that he personally knew the discovery answers were false when he filed them on behalf of Mr. Paschall.<sup>1</sup> I recommend that the Court direct Mr. Russ and Mr. Paschall to submit all documents responsive to the June 5, 2014 Order directly to the court-appointed auditor, Steven Bankler, with further instructions to share those documents with the Texas Rangers, OAG, and the State Bar of Texas.

I am informed that Ms. Caudle filed various documents on behalf of CHF in the district clerk's office yesterday. CHF cannot be represented *pro se* by non-attorneys. *See, e.g., Kunstoplast of America, Inc. v. Formosa Plastics Corp., USA*, 937 S.W.2d 455, 456 (Tex. 1996); *Serrano v. Pellicano Park, L.L.C.*, --- S.W.3d ---, 2014 WL 1266807 (Tex.App. - El Paso 2014, *Rule 53.7(f) motion denied* June 20, 2014); and *McClane v. New Caney Oaks Apartments*, 416 S.W.3d 115, 120 (Tex.App. - Beaumont 2013, *no pet.*). Neither Ms. Caudle nor any other non-attorney can file motions or represent CHF before the Court. *Id.*

The Court should also know that the purported minutes of the June 7, 2014 meeting of CHF (attached to Mr. Russ's motion) contain serious misrepresentations, as do the written statements of Ms. Caudle. In particular, Ms. Caudle's claim that the membership of CHF was unaware that CHF was a plaintiff in Cause No. 11-09-18,927-CV is provably false. Richard Johnson, the former president of CHS, has provided *The Bryan-College Station Eagle* with copies of earlier meeting minutes – recorded by the secretary and approved by the membership – wherein the members (1) approved the filing of the lawsuit, and (2) were regularly informed about its status. Copies can be provided to the Court as well. I personally briefed the entire membership of CHS at a February 1, 2014 public meeting – *while Ms. Caudle was in attendance* – about the Court's order regarding mediation, and the entire membership voted unanimously against settlement until such time as discovery was completed. That same day, *The Eagle* ran a story about the Court's mediation order, and that story plainly identified CHF as the plaintiff (as had many previous newspaper stories). To be perfectly clear, Ms. Caudle is not telling the truth.

Finally, I have obtained bank records from Edward D. Jones indicating that Mr. Paschall misappropriated approximately \$180,000 more from Ms. Oscar while she was

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<sup>1</sup> I suspect this is why Mr. Russ has gone to such extraordinary lengths in the last few weeks to gain control of his opposing party, *i.e.*, he is trying to protect himself from personal and professional liability. The Court will recall that Mr. Russ has a penchant for representing both sides in the same case, *e.g.*, when he advised the City of Calvert and the Calvert Jewish Cemetary about whether they should intervene against Mr. Paschall in this case.

still living. I have provided those records to the Texas Rangers, OAG, the State Bar of Texas, and Mr. Bankler.

Please let me know if I may be of further assistance to the Court. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: The Hon. Shane Attaway, Asst. Attorney General  
The Hon. Ingrid Ellerbee, Asst. Attorney General  
The Hon. Coty Siegert, Robertson County District Attorney  
The Hon. Barbara Axtell, Robertson County District Clerk  
Ms. Beth Stevens, Asst. Disciplinary Counsel  
State Bar of Texas  
Sgt. Jeffrey Wolf, Texas Ranger  
Mr. Steven Bankler  
Mr. Paul Gardner  
Mr. Bryan F. Russ, Jr.  
Mr. Bryan F. Russ, III  
Ms. Jennifer Caudle