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ØÖŠÖÖ G€GHÁT ŒÜÁFÏ Á€JKGÏÁŒT SOÞÕÁÔUWÞVŸ ÙWÚÒÜOUÜÁÔUWÜVÁÔŠÒÜS ÒËØŠÒÖ ÔOTÙÒÁNKGHĒGÆHUÌ€TĪÁSÞV

EX PARTE DEPARTMENT Hearing Date: March 20, 2023 Hearing Time: 10:30 AM

#### SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

CHARLES A. HAROLD, JR., OBO VA SHARON M. HAROLD,

No. 23-2-03980-7 KNT

Petitioner,

DECLARATION OF DAVID A.
PAICE, TRUSTEE, IN SUPPORT OF
MOTION TO DENY PETITION FOR
PROTECTION ORDER

DAVID ALLEN PAICE,

v.

Respondent.

- I, David A. Paice, declare as follows:
- 1. I am a party in the above-entitled action. I have personal knowledge of the facts set forth herein. I make this declaration in support of the Opposition to Petition for Protection Order ("Opposition") and in opposition to the Temporary Protection Order and Hearing Notice ("Temporary Order") and the Petition for Protection Order ("Petition").
- 2. <u>Fiduciary of Sharon M. Harold Irrevocable Trust.</u> I am the Trustee of the Sharon M. Harold Irrevocable Trust dated November 12, 2004 ("Harold Trust" or "Trust"). The Harold Trust is an irrevocable trust that Sharon created in 2004. I have served in this role for more than ten years without any compensation whatsoever because Sharon is a member of my family. I absolutely deny that I have ever acted wrongfully or breached my duty of undivided loyalty to Sharon. I have never enriched myself from the Trust in any way. I have never deliberately commingled funds of the Trust with my funds. Although there was an instance where I inadvertently and accidentally transferred funds from the Harold Trust's account to my personal

DECLARATION OF DAVID A. PAICE, TRUSTEE, IN SUPPORT OF MOTION TO DENY PETITION FOR PROTECTION ORDER -  $\ensuremath{\mathsf{1}}$ 

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bank account, upon realizing my mistake I immediately transferred the money back to the Trust's account. At no time have I ever deliberately taken funds of the Trust and put them into my personal account. I have nothing to gain from holding the Trust's funds in my own personal bank account when the Trust has its own bank accounts.

- 3. Entry of Temporary Order. I was served with the Temporary Order on Tuesday, March 7, 2023. After reading the Temporary Order, I understood that it froze me and my wife's personal BECU checking account (#2739) and the bank accounts belonging to the Harold Trust. I also understood that the Temporary Order froze Sharon's USAA member number, which I understood to mean that it would freeze any USAA bank accounts that Sharon maintains. The entry of the Temporary Order was extremely disruptive for me, my wife, and my minor child. My wife and I use the bank account that was frozen to buy food, pay our mortgage, and afford our dayto-day living expenses. I do not understand why the Temporary Order ordered my personal account to be frozen; that account does not currently hold any funds that belong to the Harold Trust in it. In fact, I have never purposefully or intentionally held money belonging to the Harold Trust or to Sharon Harold in my personal bank account. I believe that Charles Harold filed the Petition for a Protection Order in bad faith, as retaliation for filing the Motion to Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold, to harass me and my family. I am extremely upset and disgusted—that Charles Harold would seek to prevent me and my family from using my and my wife's personal funds to pay for groceries, utilities, and everyday expenses.
- 4. Distribution of \$20,740.50 to Sharon Blocked by Temporary Order. By freezing the Trust's bank accounts, the Temporary Protection Order blocked a substantial distribution of funds from the Trust from reaching Sharon. On February 27, 2023, and in response to a request for a \$20,740.50 distribution originating from Sharon's e-mail address, I made a \$20,740.50 distribution to Sharon. Exhibit A is a true and correct letter sent by my attorneys to Sharon on February 27, 2023. As my attorneys wrote:

In reliance on the representation that you [Sharon] have incurred \$19,282.50 in attorney's fees, \$352 in finance charges related to the fees, and that you have \$1,106 in outstanding medical bills, the

Trustee will be making a distribution of \$20,740.50 to you in the coming days. Mr. Paice will distribute the money via check, which we anticipate will arrive to you by Tuesday or Wednesday, March 7 or 8, 2023.

Ex. A. The Petition for Protection Order was filed exactly one week (March 3) after my attorneys sent this letter to Sharon (February 27). **Exhibit B** is a true and correct copy of screenshot I took of the confirmation of a \$20,740.50 distribution from the Harold Trust's BECU bank account to Sharon. I understand that due to the Temporary Order's freeze on the Trust's accounts, the distribution of \$20,740.50 will not reach Sharon. This is extremely disappointing and distressing to me because I believe that certain of Sharon's children are trying to take advantage of her. I have also never extorted Ms. Harold in any way.

Small. For several months Charles Harold and Amy Jane Small have been attempting to deposit money into my personal BECU bank account (#2739) via Zelle, the money-wiring service. I do not know why they are doing this, but I believe it is because they are trying to get me to accept the money so they can later accuse me of stealing money from them, the Harold Trust, or their mother. Attached as Exhibit C are true and correct copies of confirmations of attempts at unsolicited Zelle transfers from Amy Jane Small and Charles Harold to my personal BECU account. The unsolicited transfer attempts caused me to unenroll from Zelle, and because unenrollment from Zelle affects all of the accounts that I am associated with at BECU, it also means that the Harold Trust's accounts were unenrolled from Zelle. (To be clear, I do not own the Trust's accounts at BECU, but as Trustee, I am in control of those accounts on behalf of the Trust.) All of the following attempted Zelle transfers were unsolicited:

Table of Unsolicited Zelle Transfers from Amy Jane Small and Charles Harold				
Date	From	То	Actions Taken	
Dec. 5, 2022	Charles	Personal E-mail	Refused as Fraud	
	Harold			
Dec. 5, 2022	Amy Small	(206) 331-2150	Refused as Fraud	

DECLARATION OF DAVID A. PAICE, TRUSTEE, IN SUPPORT OF MOTION TO DENY PETITION FOR PROTECTION ORDER - 3

Dec. 9, 2022	Amy Small	BECU/Work E-mail	Refused as Fraud
Dec. 9, 2022	Charles	BECU/Work E-mail	Refused as Fraud
	Harold	BECU/WORK E-man	Refused as Flaud
Mar. 10, 2023	Charles	DECLINA 1 E 3	7 11 11 11 12 1 12 1
	Harold	BECU/Work E-mail	Zelle Unenrolled/No Action Taken
March 11, 2023	Charles	DECLINA 1 E 3	7 11 11 101 1 17
	Harold	BECU/Work E-mail	Zelle Unenrolled/No Action Taken
March 12, 2023	Charles	DECLINA 1 E 1	
	Harold	BECU/Work E-mail	Zelle Unenrolled/No Action Taken
March 12, 2023	Charles		7 11 11 12 1 12 1
	Harold	BECU/Work E-mail	Zelle Unenrolled/No Action Taken

I found it particularly concerning that Charles Harold wrote "Just Checking" on the March 12, 2023 attempted Zelle transfers. I interpreted that accompanying note to be his crude way of taunting me and continuing to harass me.

6. Longstanding Positive Relationship with Sharon M. Harold. Sharon is my wife's grandmother, and I have known her for over 20 years. Throughout more than two decades, Sharon and I have enjoyed a close and healthy relationship. Over the years my wife (Sharon's granddaughter), our children (Sharon's great-grandchildren), and I have attended birthdays together, vacationed together, visited together, and generally enjoyed each other's company together. I have always been a contributing member of Sharon's extended family, assisting her—at her request—with whatever she asked for help with. I live with my family in Burien, Washington, and Sharon lives in Reedsport, Oregon. I have not seen Sharon in person in over two years, and I have not spoken directly with her since September/October 2022. My positive relationship with Sharon turned sour only after Charles Harold became involved in his 87-year-old mother's affairs in October 2022. Before October 2022, Sharon made it extremely clear to me that (a) she did not trust Charles; (b) she did not want him to be in control of the Harold Trust or

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her affairs; and (c) she generally was afraid of him. I am concerned that Charles has taken control of Sharon and is using this civil-protection proceeding to disguise his unlawful actions. To be clear, I have never stolen from or attempted to steal from Sharon or the Harold Trust, and I have never interfered with or attempted to interfere with Ms. Harold's powers of attorney, estate planning documents, or assets. Although I understand the Harold Trust allows me to receive compensation for serving as Trustee, I have never taken any compensation from the Trust.

7. No Refusal to Pay for Assisted Living or Memory Care. Sharon has never once requested a distribution from the Harold Trust to pay for her assisted living or memory care period. The allegation made on page four, section 12 of the Petition for Protective Order—that I "refuse[] to release trust funds so [Sharon] can be placed in assisted living"—is false: it is impossible for me to have denied a request that was never made of me. Had Sharon requested funds for assisted living or memory care, I would have immediately considered the distribution request in light of the Trust instrument and my fiduciary duties. Because I am extremely concerned that some of Ms. Harold's children, including Charles Harold or Amy Jane Small, are trying to steal Ms. Harold's money and have access to her checking and bank accounts, if I were to make a distribution for Sharon's assisted living or memory care, I would likely make the distribution directly to the third party, just as I was willing to make distributions directly to her attorney, but not simply to send Sharon large sums of money based on demands coming from her email account which I believe was "hijacked" by some of her children. I do not currently believe Ms. Harold is living in (or considering living in) an assisted-living or memory-care facility. If a guardian ad litem who could assess her needs told me what those needs are, I would immediately respond appropriately. The trust accountings submitted as part of the Verified Petition show many instances of the Harold Trust making distributions to Sharon for her medical care expenses. I am not "interfer[ing] with disability planning and refus[ing] to release trust funds to grantor for assisted living care," as alleged by Charles Harold in paragraph 8 of his declaration. I am not Sharon's guardian; I am the trustee of the Trust set up for her lifetime benefit. I do not have the authority to make decisions related to Sharon's healthcare, her living arrangements, or her estate planning, and

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DECLARATION OF DAVID A. PAICE, TRUSTEE, IN SUPPORT OF MOTION TO DENY PETITION FOR PROTECTION ORDER - 6

Trust's accountings, which is what I did in December 2022.

8. No Interference with Sharon Harold's Powers of Attorney. I have never tampered with or interfered with Sharon Harold's powers of attorney in any way. I have never requested that Sharon rescind any of her powers of attorney, and I have never spoken with Roger Gould or any other of Sharon's attorneys about changing Sharon's powers of attorney. I have never spoken with my mother-in-law (Sharon's daughter), Jenifer Sawyer, about changing Sharon's powers of attorney or asked Jenifer to speak with Sharon about revoking a power of attorney. I understand that Charles Harold has submitted a spreadsheet of my calls to Sharon Harold. These call logs, however, do not show the content of what Sharon or I spoke about. As stated above, of course, I talked to Sharon frequently. Until some of her children poisoned our relationship, she and I talked

all the time, including about her Trust, which is why I did not previously prepare formal trust accountings—she always knew and understood what was going on with the Trust and always

approved of my actions. I have never provided guidance or counseled Sharon regarding her powers

of attorney or revoking her powers of attorney.

9. No Concerted Effort to Force Sharon Harold to Sign Release and Discharge. In paragraph 32 of Charles's declaration submitted in support of the Petition for Protection Order, he cites a purported police report from the Reedsport Police Department. I know nothing about this police report or what it purports to describe. I was not the subject of the police report, was not in Oregon at that time, and had nothing to do with whatever incident the report purports to describe. The car described in the report was not mine. Regardless of whose car the police report describes, I have never attempted to force Sharon to sign the Release and Discharge instrument. *See also* Second Paice Decl. ¶ 2 (describing communications with Sharon regarding release). When I spoke with Sharon about this, she told me that she wanted to execute the document. At no time did I ever threaten her or coerce her into signing the document. My position was—and always has been—that, as I am allowed to do under Washington law, if either Sharon or any of the remainder beneficiaries declined to approve the accountings, I would seek court approval of the Harold

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- 10. No Improper Activity Connected with My Employment for BECU. I am a Senior Business Systems Analyst at BECU and a Co-Chair of BECU's Veteran's Employee Resource Group, a group that serves BECU employees who are veterans. I have worked for BECU for 23 years. Contrary to Charles Harold's statement that I "administer[] the Trust . . . at [BECU], where I am employed," I *do not* administer the Harold Trust as part of my work for BECU. While my wife and I maintain personal bank accounts at BECU, and although the Harold Trust's accounts are maintained at BECU, I do not, as part of my work for BECU, manage or oversee the Harold Trust's bank accounts. In other words, in my capacity as Trustee of the Harold Trust, I am a customer—not an employee—of BECU. I have read and re-read Mr. Harold's Supplemental Brief in Support of Protection Order that was filed on March 15, 2023 multiple times, and I still do not fully understand what he is alleging. It appears that he is alleging that I orchestrated some type of grand conspiracy—all of which is completely made up and untrue. To the extent that I understand the allegations in the Supplemental Brief, the allegations of computer fraud, hacking, and improper use of BECU systems in his Supplemental Brief are absolutely false: I have never taken any illegal action with BECU's systems or with regard to Ms. Harold or with regard to her computer or her telephone or her bank accounts.
- 11. No Motive to Defraud, Hurt, Steal From, Abuse, or Exploit Sharon Harold. In addition to being a loving husband and father, I am an active reservist in the armed forces (Petty Officer Second Class in the United States Coast Guard) and a respected colleague and friend. I routinely travel around the United States while on active duty, and I take pride in my role in the armed forces. I have never purposefully comingled funds belonging to the Harold Trust with my or my wife's personal funds, and I have never stolen from the Harold Trust. As I explained in my previous declarations, Sharon and I have known each other for over two decades, and we have always—up until October 2022, when Charles Harold became involved in his mother's affairs—enjoyed a productive and positive extended-family relationship. Sharon asked me in early 2010 if I would be willing to serve as successor trustee of the Harold Trust, and I agreed to serve. I only agreed to serve to help Sharon; I did not agree to serve because I wanted to exploit or abuse Sharon.

DECLARATION OF DAVID A. PAICE, TRUSTEE, IN SUPPORT OF MOTION TO DENY PETITION FOR PROTECTION ORDER - 7

In fact, I am personally disgusted and deeply hurt that those abhorrent allegations of abuse of a vulnerable adult are being leveled against me when all I was trying to do was help my wife's grandmother.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Executed on this 11 th day of March, 2023, at Seattle, Washington.

David A. Paice

DECLARATION OF DAVID A. PAICE, TRUSTEE, IN SUPPORT OF MOTION TO DENY PETITION FOR PROTECTION ORDER - 8

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134455.0002.9314935.2

GR 17 DECLARATION RE ELECTRONIC DOCUMENT - 1

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GR 17 DECLARATION RE ELECTRONIC DOCUMENT - 2

LANE POWELL PC 1420 FIFTH AVENUE, SUITE 4200 P.O. BOX 91302 SEATTLE, WASHINGTON 98111-9402 206.223.7000 FAX: 206.223.7107

## Exhibit A



ALEKSANDER SCHILBACH
206.436.9909
SCHILBACHA@LANEPOWELL.COM

February 27, 2023

#### VIA REGULAR & ELECTRONIC MAIL – smharold7@gmail.com

Ms. Sharon Harold 100 River Bend Road, #103 Reedsport, OR 97467

**RE:** The Sharon M. Harold Irrevocable Trust dated November 12, 2004 Response to E-mail to Mr. Paice dated February 24, 2023

Dear Ms. Harold,

We are writing on behalf of Mr. David Paice, the Trustee of the Sharon M. Harold Irrevocable Trust dated November 12, 2004, in response to an e-mail of February 24, 2023, originating from your e-mail address to Mr. Paice. The February 24 e-mail to Mr. Paice stated:

Please send me \$1,106.00 for Dental bills.

Also reimburse me for \$19,282.50 I have spent on attorney fees plus \$352.00 in finance charges on credit cards I used to pay the attorneys. I need these funds immediately so I can pay off these credit cards that are accruing interest and have money for upcoming eye surgery for which I have been waiting for almost a year. I also have other medical expenses. And return any attorney fees you have spent out of my trust.

In reliance on the representation that you have incurred \$19,282.50 in attorney's fees, \$352 in finance charges related to the fees, and that you have \$1,106 in outstanding medical bills, the Trustee will be making a distribution of \$20,740.50 to you in the coming days. Mr. Paice will distribute the money via check, which we anticipate will arrive to you by Tuesday or Wednesday, March 7 or 8, 2023.

The claim that the Trustee has refused to make distributions to you so that you can obtain legal representation is false. The Trustee is—and has always been—willing to make distributions to ensure that you are independently represented by counsel, especially given the Trustee's concern that some of your children may be trying to take advantage of you. As we explained in our letter of November 23, 2022 to your former attorney Ms. Michelle Blackwell, the Trustee was willing to make a distribution of \$10,000 for Ms. Blackwell's continued representation of you. Unfortunately, Ms. Blackwell withdrew because she discovered a "non-waivable conflict

Ms. Sharon Harold February 27, 2023 Page 2

of interest" and because she learned that "important information" regarding your mental and physical health and capacity had been "withheld" from her. Mr. Paice remains concerned about your well-being, and he will continue to perform his duties on your behalf until the court approves his resignation and discharge and he is able to transfer responsibility for your irrevocable trust to an appropriate successor trustee.

In response to the statement in the February 24 e-mail that the Trustee must "return any attorney fees you have spent out of my trust," we remind you that Article IV, § F, ¶ 11 explicitly provides that the Trustee may hire counsel to advise the Trustee on the "management, preservation and administration" of the Trust:

To carry out the purposes of the Trust, and subject to any limitation stated elsewhere herein, the Trustee and any successor Trustee are hereby vested with the following powers and discretions, in addition to those now or hereafter conferred by law:

. . . .

11. To employ counsel to assist and advise in the management, preservation and administration of the Trust Estate; and to compromise, arbitrate, settle, or litigate any matters pertaining thereto. The Trustee shall pay reasonable compensation therefor, and the same shall be charged against income and/or principal in such manner as the Trustee shall deem just and equitable.

As noted above, we anticipate that the check for \$20,740.50 will arrive to you by March 7 or 8, 2023. Please let us know if you have any questions regarding the distribution.

Sincerely,

LANE POWELL PC

Gail E. Mautner Aleksander Schilbach

CC: Mr. David A. Paice, Trustee

134455.0001/9297613.1

<sup>&</sup>lt;sup>1</sup> Declaration of Michelle A. Blackwell in Support of Alternative Motion for Withdrawal by Order for Respondent Sharon M. Harold dated February 1, 2023, ¶ 14.

<sup>&</sup>lt;sup>2</sup> Supplemental Declaration of Michelle A. Blackwell in Support of Alternative Motion for Withdrawal by Order for Respondent Sharon M. Harold dated February 2, 2023, ¶ 8.

# Exhibit B



\$20,740.50 Trust Checking \*9307 3-9-23 Processed Cfm # TQSR3-YKY15

Processing

Processed



Check 995031 was mailed to Sharon Harold for receipt by Mar 9, 2023. Your check may be cashed, and the money withdrawn, before, on, or after Mar 9, 2023.

Pay From Trust Checking \*9307

Amount \$20,740.50

PROCESSED

Mar
9
(Estimated)

Memo Attorney / Dental Reimb

Confirmation TQSR3-YKY15

Payment Inquiry Print

# Exhibit C











Hello David,

Amy Jane Small sent you \$1.00 on 12/05/2022. However, we were unable to deposit the money into your account (BECU, Checking), so we're returning the money to Amy Jane Small. You may want to check that your account is listed correctly in Zelle.

If you have any questions about your account, contact us at donotreply@becu.org or (800) 233-2328.

Contact Amy Jane Small directly if you need to make other arrangements to receive this payment.

Thank you for using Zelle.

Sincerely,

BECU

You received this service-related email because someone triad to send you mentay through Zelle. You can see all outstanding requests and incoming payment activity by signing in to our websits and locating Zelle.

Email ID: ZEL912





You inspected this service-related email back, telponeons midd to card you monent prough Delle. You can see all outstanding requests and incoming payment activity bins gring in to our website and locating Delle

Ema ID: ZEL9\_2

BECU

From: Zelle <Notifications@zellepay.com>
Sent: Friday, March 10, 2023 5:33 PM

**To:** David Paice

**Subject:** [EXTERNAL] CHARLES HAROLD sent you \$1.00 with Zelle®



You only have **14** days left.

Enroll to receive **\$1.00**from CHARLES HAROLD

"Just Checking"

### **ENROLL TO RECEIVE**

To receive your money, enroll using this email address:

dpaice@becu.org

Before Mar 25, 2023 Terms and conditions apply

Zelle® is a fast, safe & easy way to send money to and receive money from friends, family and others you trust.

For more information, please visit https://www.zellepay.com



<u>Contact</u> <u>Privacy</u> <u>Legal</u>

Contact Zelle Support at 1-844-428-8542, 7 days a week, 8am-Midnight Eastern.

<u>customerservice@zellepay.com</u>

Early Warning Services, LLC 16552 N. 90th Street, Scottsdale, AZ 85260 USA

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Unsubscribe here to stop getting emails from Zelle.

From: Zelle <Notifications@zellepay.com>
Sent: Sunday, March 12, 2023 9:21 PM

To: David Paice

**Subject:** [EXTERNAL] CHARLES HAROLD sent you \$1.00 with Zelle (R). Enroll to receive



You only have **12** days left.
Enroll to receive **\$1.00**from CHARLES HAROLD

### **ENROLL TO RECEIVE**

To receive your money, enroll using this email address:

## david.paice@becu.org

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From: Zelle <Notifications@zellepay.com>
Sent: Saturday, March 11, 2023 7:27 AM

To: David Paice

**Subject:** [EXTERNAL] CHARLES HAROLD sent you \$1.00 with Zelle®



You only have **14** days left.
Enroll to receive **\$1.00**from CHARLES HAROLD

### **ENROLL TO RECEIVE**

To receive your money, enroll using this email address:

## david.paice@becu.org

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From: Zelle <Notifications@zellepay.com>
Sent: Sunday, March 12, 2023 6:01 PM

To: David Paice

**Subject:** [EXTERNAL] CHARLES HAROLD sent you \$1.00 with Zelle (R). Enroll to receive



You only have **12** days left.

Enroll to receive **\$1.00**from CHARLES HAROLD

"Just Checking"

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To receive your money, enroll using this email address:

dpaice@becu.org

Before Mar 25, 2023 Terms and conditions apply Zelle® is a fast, safe & easy way to send money to and receive money from friends, family and others you trust.

For more information, please visit https://www.zellepay.com/



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