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VICE CHANCELLOR

**COURT OF CHANCERY
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September 6, 2013

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Re: *David J. Branson, et al. v. Vincent Branson*
Civil Action No. 7603-VCG
Date Submitted: August 12, 2013

Dear Counsel:

This matter involved a petition to quiet title to a beach cottage (the "Property"). In my Memorandum Opinion of July 19, 2013, I found that litigation tactics employed by the Respondent "were so obviously meritless that the only justification for . . . them was to delay resolution of this matter and so avoid the consequences of" Vice Chancellor Noble's controlling prior Memorandum Opinion.[1] I noted, however, that while the Respondent has litigated in bad faith, this matter was also unnecessarily prolonged due to the Petitioners' ambiguously-drafted Petition to Quiet Title.[2] Therefore, I directed the Petitioners to submit a

[1] *Branson v. Branson*, 2013 WL 3789755, at *5 (Del. Ch. July 19, 2013). Vice Chancellor Noble's opinion can be found at *In re Estate of Branson*, 2010 WL 3449235 (Del. Ch. Sept. 1, 2010), *aff'd sub nom. Branson v. Branson*, 35 A.3d 418 (Del. 2011).
[2] *Branson*, 2013 WL 3789755, at *5.

statement of reasonable attorney fees which they believed reflected the cost imposed on them by the Respondent's purely vexatious legal maneuvers.[3]

The Petitioners' counsel submitted an affidavit for attorney fees on July 30, 2013. I asked the Respondent to state any opposition to the fee request by August 12, 2013.[4] The Respondent has failed to respond, and has thus waived any objection to the statement of fees as reflecting reasonable fees consistent with my July 19 Memorandum Opinion. Nevertheless, I must independently review the fee request to ensure that the fees sought are reasonable as well as consistent with the limitations I established as to the issues in connection with which fees will be shifted. The Petitioners initially brought this action to quiet title against the Respondent. It became clear in the course of litigation that the Petitioners were only seeking to clear bare legal title, based on a deed of record that erroneously represented that the Respondent was an owner of the property in question. The decision of Vice Chancellor Noble in the underlying action made it clear that the Respondent has no interest in the Property.[5] The language used in the Petitioners' Petition, however, also indicated that the Petitioners were seeking to quiet title *in rem*, that is, against the world at large rather than against the Respondent solely.

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[3] *Id.*

[4] Initially, I asked the Respondent to state any opposition to the fee request by August 5, 2013. At the request of the Respondent's counsel, however, I extended this deadline until August 12, 2013.

[5] *In re Estate of Branson*, 2010 WL 3449235, at *8-10.

As a result, the Respondent sought to bring in other potential claimants to the Property, requiring briefing and argument. As I noted in my Memorandum Opinion of July 19, 2013, it would be inequitable to shift fees that resulted from the Petitioners' own unclear and overbroad drafting of their Petition. That inconsistency in drafting was not finally resolved until my bench decision of April 9, 2013 denying the Respondent's Motion for Reargument.

In his affidavit of fees, however, the Petitioners' counsel appears to have made no effort to limit his fee request to fees incurred in this action resulting from baseless positions taken by the Respondent. Instead, he has included amounts which clearly are not related to the Respondent's vexatious conduct in this action. These include such things as Petitioners' drafting of the Petition to Quiet Title; teleconferences with the Register of Wills as to the status of the separate accounting action filed by the Respondent in that jurisdiction; work on the Supreme Court appeal of the underlying action; and preparation for and drafting of documents in connection with the Respondent's interpleader motion, which related to the Petitioners' drafting error I have detailed above. Since the Petitioners have failed to cleanse their fee request of amounts not sanctioned in my July 19 Memorandum Opinion, I have disallowed all fee requests predating the resolution of the drafting issue on April 9, 2013. Fees incurred after April 9, 2013 were, I find, incurred in response to vexatious litigation, as the invoice attached to the

affidavit of fees demonstrates. According to that invoice, reasonable fees incurred after April 9, 2013 total $l,235.00. Therefore, I award Petitioners $1,235.00 in attorneys' fees under the bad faith exception to the American Rule, to be paid by the Respondent within thirty (30) days from the date this matter becomes final. To the extent the foregoing requires an order to take effect, IT IS SO ORDERED.

Sincerely,

/s/ Sam Glasscock III

Sam Glasscock III