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PHILADELPHIA COURT OF COMMON PLEAS  
ORPHANS' COURT DIVISION

Raymond and Ruth Perelman Education Foundation Under  
Agreement of Trust Dated August 21, 1995 as Amended  
O.C. No. 519 IV of 2013  
Control No. 131198  
Control No. 132242  
Control No. 132257

Opinion

***Introduction***

On June 27, 2013, Jeffrey Perelman (“Jeffrey”) filed amended petitions seeking a court order requiring his father, Raymond Perelman (“Raymond”), to produce for inspection and copying all books and records related to the administration, distribution and investment of the following charitable foundations<sup>1</sup> established by Raymond and his wife, Ruth Perelman:

The Raymond and Ruth Perelman Judaica Foundation  
The Raymond and Ruth Perelman Community Foundation, and;  
The Raymond and Ruth Perelman Education Foundation

According to Jeffrey, these three foundations were established by separate, identical Agreements of Trust dated August 21, 1995.<sup>2</sup> Jeffrey also filed amended petitions relating to the Raymond G. Perelman Charitable Remainder Unitrust under Agreement of Trust dated April 25, 1996 and the Raymond and Ruth Perelman Family Charitable Foundation under Agreement of Trust dated April 25, 1996.

In addition to inspecting and copying the books and records of these foundations, Jeffrey also seeks to inspect and copy the “books and records of the entities with whom the Education Foundation engaged in business and/or financial transactions” that were owned or controlled by Raymond, individually or as trustee.<sup>3</sup> Raymond and Ronald Perelman vigorously opposed these petitions asserting, inter alia, that they should be dismissed because Jeffrey lacks standing to pursue them. It is undisputed, for instance, that Jeffrey was not a beneficiary of any of these charitable foundations. In addition to Jeffrey’s lack of standing, Raymond asserts that Jeffrey’s

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<sup>1</sup> Jeffrey had initially filed a petition seeking this information on April 24, 2013. When preliminary objections were filed by Raymond and Ronald Perelman, however, Jeffrey responded by filing his amended petitions.

<sup>2</sup> 6/27/13 Jeffrey Perelman Amended Petition, ¶1.

<sup>3</sup> 6/27/13 Jeffrey Perelman Amended Petition, Proposed Order.

petition should be dismissed for failure to join or identify indispensable parties. He claims that it is also factually defective in failing to name the business entities whose corporate books and records are sought. Raymond also maintains that Ruth's estate faces no liability attributable to the administration of the Foundation during her trusteeship for various reasons.<sup>4</sup> In response, Jeffrey argues that he has standing as the executor of Ruth Perelman's estate and as a successor trustee. For the reasons set forth below, Jeffrey Perelman lacks standing to obtain the information he seeks in his Amended Petition about the Raymond and Ruth Perelman Education as well as the other charitable foundations he petitioned.

### ***Factual Background***

An analysis of Jeffrey Perelman's standing to gain access to the books and records of the charitable foundations established by his parents hinges on the various documents and amendments to those documents that were executed to establish the charitable foundations. On August 21, 1995, Ruth and Raymond Perelman executed an Agreement of Trust ("August 21, 1995 Trust Agreement" or "1995 Trust Agreement") to establish the Raymond and Ruth Perelman Education Foundation. In this agreement, they designated themselves as trustees or original trustees. As Raymond notes, this foundation is exempt from income taxation as a private foundation within the meaning of the Internal Revenue Code of 1986.<sup>5</sup> One key provision of this initial 1995 trust agreement that is at the heart of the present dispute is Item FOURTH which provides:

FOURTH – Irrevocability: This trust is expressly stated to be irrevocable; provided, however, that this trust, except for this Item FOURTH, may be amended at any time or times by written instrument or instruments signed and acknowledged by the Original Trustees then serving. However, no amendment shall authorize the Trustees to conduct the affairs of this trust in any manner or for any purpose contrary to the provisions of Section 501(c)(3) of the Code.<sup>6</sup>

Another key provision of the initial 1995 trust agreement is Item SEVENTH, which states:

SEVENTH - Trustees: Additional and Successor Trustees may be appointed as follows:

1. The Original Trustees may, if they deem it appropriate, by joint action, or by the sole action of the latter to serve of them, appoint at any time, or from time to time, Additional or Successor Trustees; and by joint action, or by the sole action of the latter to serve of them, dismiss any such Additional or Successor Trustee, with or

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<sup>4</sup> 7/29/13 Raymond Perelman Preliminary Objections, Introduction at 3, ¶¶ 31-42, 61-63 & 73.

<sup>5</sup> 7/29/13 Raymond Perelman Preliminary Objections, ¶ 3.

<sup>6</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. A (August 21, 1995 Trust Agreement).

without cause, and without any requirement to appoint a replacement. This authority to appoint Additional or Successor Trustees does not foreclose a decision by the Original Trustees, or by the latter to serve of them, to administer the Foundation without Additional or Successor Trustees until such time as both of the Original Trustees are no longer serving.

2. Upon the termination of service by any Trustee, for whatever reason, no accounting shall be required, unless an original Trustee, or a majority of all Trustees other than the terminating Trustee, shall insist, and the release by the remaining Trustees of the terminating Trustee shall be a complete discharge to the terminating Trustee of all liability for his or her service.
- August 21, 1995 Trust Agreement, Item SEVENTH

On February 12, 1996, Raymond and Ruth amended this initial August 21, 1995 Trust Agreement for the Education Foundation with the “First Amendment and Restatement of the Raymond and Ruth Education Foundation” (hereinafter “February 12, 1996 Amended Trust Agreement”). Item FOURTH was amended as follows to give Raymond sole authority to amend the trust prior to his death:

FOURTH—Irrevocability – This trust is expressly stated to be irrevocable; provided, however, that this trust, except for this item FOURTH, may be amended at any time or times by written instrument or instruments signed and acknowledged by RAYMOND PERELMAN. However, no amendment shall authorize the Trustees to conduct the affairs of this trust in any manner or for any purpose contrary to the provisions of Section 501(c)(3) of the Code. In addition, after RAYMOND PERELMAN’s death, resignation or permanent incapacity, at any time, or from time to time, the then surviving Trustees shall have the power to amend this Agreement or any of its terms in any manner required for the sole purpose of ensuring that the trust qualifies and continues to qualify under Section 501(c)(3) of the Code.<sup>7</sup>

Significantly, this amendment was signed by both original settlors and trustees who were then serving: Ruth and Raymond Perelman.

Item SEVENTH of the February 12, 1996 Amended Trust Agreement likewise continued to provide that “no accounting” would be required upon the termination of “service by any Trustee, for whatever reason” unless an original trustee “shall insist.” Moreover, “the release by the remaining trustees of the terminating Trustee shall be a complete discharge to the terminating Trustee of all liability for his or her service.”<sup>8</sup>

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<sup>7</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. B (February 12, 1996 Amended Trust Agreement, Item FOURTH).

<sup>8</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. B (February 12, 1996 Amended Trust Agreement, Item SEVENTH(3)).

On November 12, 2007, Raymond amended the February 12, 1996 Amended Trust Agreement. Two years later, on August 18, 2009 Raymond revoked in its entirety the February 12, 1996 Amended Trust Agreement. In so doing, he removed Ruth as original trustee. He also changed the successor trustees upon Raymond's death from his sons Jeffrey and Ronald Perelman to Ronald and Debra Perelman.<sup>9</sup> Ruth died July 31, 2011.

In 2013, Raymond executed more amendments to the trust document. On May 13, 2013, Raymond, serving as the sole Original Trustee of the trust, revoked the November 12, 2007 Amendment and the August 18, 2009 Amendment in their entirety. This May 13, 2013 Amendment further provides that the successor trustees upon Raymond's death would be Ronald Perelman and Debra Perelman.<sup>10</sup> A few weeks later, on May 29, 2013, Raymond once again amended the trust to provide in Item SEVENTH that "at no time" shall Jeffrey Perelman serve as a successor trustee for this foundation.<sup>11</sup> By document dated June 11, 2013 Raymond amended and restated the trust for the Raymond and Ruth Perelman Education Foundation. It appoints Ronald and Debra to serve with him as additional trustees of the foundation upon acceptance of that appointment. It states Jeffrey shall never serve as successor trustee.<sup>12</sup> According to Raymond, this June 11, 2013 Amendment and Restatement is the "operative governing" trust document for the Education Foundation."<sup>13</sup>

### *Legal Analysis*

As a threshold issue, Jeffrey Perelman must establish that he has standing to seek and obtain the information he requests concerning the Perelman Education Foundation and the entities with whom the Foundation engaged in business. To establish standing, Jeffrey must show that he has a "legally sufficient interest" in this information and that he would be aggrieved if deprived access to it. Pittsburgh Palisades Park LL C v. Commonwealth, 585 Pa. 196, 204,

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<sup>9</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. D(Second Amendment to the First Amendment and Restatement of the Raymond and Ruth Perelman Education Foundation executed August 18, 2009)(hereinafter "August 18, 2009 Amended Trust Agreement").

<sup>10</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. E (Amendment of the First Amendment and Restatement of the Raymond and Ruth Perelman Education Foundation executed May 13, 2013(hereinafter "May 13, 2013 Amended Trust Agreement").

<sup>11</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. F (Amendment of the Raymond and Ruth Perelman Education Foundation executed May 29, 2013, Item SEVENTH (B)(6))(hereinafter " May 29, 2013 Amended Trust Agreement").

<sup>12</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. G (Amendment and Restatement of the Raymond and Ruth Perelman Education Foundation executed June 11, 2013)(hereinafter "June 11, 2013 Amended Trust Agreement").

<sup>13</sup> 7/29/13 Raymond Perelman Preliminary Objections, ¶14.

888 A.2d 655, 659 (2005). Because Pennsylvania courts do not decide issues in the abstract, the traditional concept of standing focuses on the idea that “a person who is not adversely affected in any way by the matter he seeks to challenge is not ‘aggrieved’ thereby and has no standing to obtain a judicial resolution of his challenge.” Wm. Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 192, 346 A.2d 269, 280 (1975). For these reasons, to have standing, a person must have an interest in the matter that is “substantial, direct and immediate.” Estate of Briskman, 808 A.2d 928, 2002 Pa. Super. 287, 933 (2002).

Jeffrey asserts that he has standing to seek information about the Education Foundation based on his dual capacities as executor under Ruth’s Will as well as successor trustee of the Education Foundation. As executor, Jeffrey contends that he has the authority to seek an accounting and access to the books and records of the trust. He also seeks to assess any potential liability Ruth’s estate might incur based on the administration of the trust or Education Foundation, which, he alleges, was compromised by Raymond’s stripping cash from the foundations in exchange for receivables of more than \$150 million. Finally, Jeffrey is attempting to determine whether Ruth’s estate should make a claim for compensation for her services as trustee.<sup>14</sup>

***1. Under the Clear, Unambiguous Language of the Trust Agreement Jeffrey Cannot Predicate Standing on His Demand for an Accounting by Raymond Perelman***

Whether Jeffrey has standing to pursue an accounting from his father Raymond Perelman of his administration of the Raymond and Ruth Perelman Education Foundation hinges on the language of the relevant trust/foundation documents as manifestation of the settlors’ intent. As Pennsylvania courts repeatedly emphasize, “the touchstone in construing a trust is the settlor’s intent; the language of the trust deed itself is the best and controlling evidence of such intent.” In re Estate of Devine, 910 A.2d. 699, 703, 2006 Pa. Super. 294 (2006), app. denied 592 Pa. 767, 923 A.2d 1174 (2007); In re Benson, 419 Pa. Super. 582, 587-88, 615 A.2d 792, 795 (1992)(the settlor’s intent “must prevail”).

In basing his standing on his authority to seek an accounting on behalf of Ruth’s estate, Jeffrey insinuates that Raymond engaged in financial chicanery to strip the foundations of their assets and that the numerous amendments of the trust agreement from 1996 to 2013 were “ultra vires” because of the invalid amendment of Item FOURTH in the February 12, 1996 First

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<sup>14</sup> 8/26/13 Jeffrey Perelman Memorandum at 19 & 2.

Amendment and Restatement which gave Raymond unilateral authority to amend the trust.<sup>15</sup> Before being diverted by Jeffrey’s subtle—but ultimately unpersuasive—arguments on the propriety of the 1996 trust amendments in relation to Item FOURTH, it is necessary to focus first very sharply on the specific language of the various trust agreements as to whether an accounting by a trustee is appropriate. With their very first trust agreement dated August 21, 1995, both Ruth and Raymond Perelman as settlors expressed their clear --and unfaltering—intent that an original trustee—either Raymond or Ruth—should be required to give an accounting only under very limited circumstances: As Item SEVENTH states:

2. Upon the termination of service by any Trustee for whatever reason, no accounting shall be required, unless an original Trustee, or a majority of all Trustees other than the terminating Trustee, shall insist, and the release by the remaining Trustees of the terminating Trustee shall be a complete discharge to the terminating Trustee of all liability for his or her service.

August 21, 1995 Perelman Education Foundation Trust Agreement, Item SEVENTH (2)(emphasis added).

Less than a year later, Raymond and Ruth amended the initial trust agreement. When both Ruth and Raymond signed an amendment of the Education Foundation Trust Agreement on February 12, 1996, the February 1996 amendment retained this language that no accounting shall be required by a trustee as set forth in Item SEVENTH (3). While the agreements were subsequently amended numerous times, the final June 11, 2013 Amendment and Restatement of the Raymond and Ruth Perelman Education Foundation that Raymond characterizes as the presently “operative governing” trust document,<sup>16</sup> likewise imposes limits on when an Original Trustee shall present an accounting.<sup>17</sup>

With this clear, constant language, the settlors expressed their intent that an original trustee such as Raymond could not be required to make an accounting for any reason upon the termination of Ruth as original trustee unless Raymond, as the original trustee then serving, so requests. Since Raymond objects to any accounting, Jeffrey cannot base his claim of standing on a request for an accounting. Raymond also argues that with this language that no account shall be required, Ruth waived an accounting which is binding under Estate of Grote, 390 Pa. 261, 268, 135 A.2d 383, 386 (1957).<sup>18</sup> In Grote, however, the individual beneficiaries who objected

<sup>15</sup> See generally 8/26/13 Jeffrey Perelman Memorandum at 6, 8, 11-13.

<sup>16</sup> 7/29/13 Raymond Perelman Preliminary Objections, ¶14.

<sup>17</sup> See June 21, 2013 Perelman Education Foundation Agreement, Item TENTH (G).

<sup>18</sup> 7/29/13 Raymond Perelman Preliminary Objections, ¶ 33.

to an informal accounting had personally signed a waiver which is not the case here. Instead of this strained rationale, the clear, unambiguous language of the trust agreement is decisive. As Jeffrey emphasizes, the settlor's intent should control and the writing should be considered the best and controlling evidence of that intent.<sup>19</sup> It is well established that "when the language of the will is plain and unambiguous, such language controls and there is no room for judicial construction." Estate of McKinney, 435 Pa. 608, 612, 258 A.2d 632, 634 (1969). That same interpretative rule applies to the various Perelman trust agreements with their clear, unambiguous language limiting the obligation for an accounting by Raymond in this factual context. See, e.g. August 21, 1995 Trust Agreement (Item SEVENTH (2)); February 12, 1996 Amended Trust Agreement (Item SEVENTH (3)); and June 11, 2013 Amended Trust Agreement (Item TENTH (G)).

***2. Jeffrey's Claim to Standing to Assess Any Potential Liability for Ruth's Estate Based on the Administration of the Perelman Education Foundation is Without Merit in Light of the Clear Language of the Trust Agreements and Raymond's Release and Indemnification***

Jeffrey's claim to standing based on the potential liability of Ruth's estate for any mismanagement of the Education Foundation likewise must be analyzed in the context of the controlling documents. In the initial August 21, 1995 Perelman Education Foundation Trust Agreement, the settlors expressed their intent that "the release by the remaining Trustees of the terminating Trustee shall be a complete discharge of the terminating Trustee of all liability for his or her services."<sup>20</sup> This same position is expressed in the June 11, 2013 Amendment and Restatement of the Perelman Education Foundation Agreement which states in Item TENTH (G) that "the release by the Original Trustee, or a majority of the trustees then serving other than the terminating trustee if the Original Trustee is not then serving, shall be a complete discharge to the terminating trustee of all liability for the terminating trustee's service."<sup>21</sup> With this clear, unambiguous language Ruth and Raymond, and after Ruth's removal and death, Raymond alone,

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<sup>19</sup> 8/26/13 Jeffrey Perelman Memorandum at 13-14 (citing In re Devine, 910 A.2d 699, 703 (Pa. Super. 2006) and In re Girard Trust Corn Exchange Bank, 418 Pa. 112, 115, 208 A.2d 857, 859 (1965).

<sup>20</sup> 7/29/13 Raymond Perelman Preliminary Objections, Ex. A (August 21, 1995 Trust Agreement, Item SEVENTH (2)).

<sup>21</sup> 7/29/13 Raymond Perelman's Preliminary Objections, Ex.G (June 11, 2013 Amended Trust Agreement, Item TENTH (G)).

reiterated a straightforward mechanism for providing a complete discharge for a “terminating” trustee such as Ruth.

Raymond followed through with the option set forth in the trust agreements by executing a “Release, Indemnification and Waiver of Accounting Agreement” on May 29, 2013. With this document which specifically references the Ruth and Raymond Perelman Foundation Trust Agreement of August 21, 1995, and its subsequent amendments, Raymond released “Ruth Perelman from any liability for her service, if any, as a Trustee of the Trust” while waiving “the preparation and filing of an account of the administration of the Trust during the period Ruth served as a Trustee of the Trust.”<sup>22</sup> Based on the clear language of these documents, the estate of Ruth Perelman has been discharged from any liability relating to the management of the Perelman Education Foundation so that Jeffrey, as her executor, cannot claim to be aggrieved or have standing.

Jeffrey seeks to avoid this result with the procedural argument that “waiver and release” cannot be raised by preliminary objection because they are affirmative defenses that must be raised as new matter.<sup>23</sup> This invocation of civil rules applicable to formal pleadings, however, is inapposite here since, as Jeffrey concedes, he is not asking to remove or surcharge Raymond; instead, the petitions are “more in the nature of an Orphans’ Court petition for discovery than a complaint on the civil side of the Court.”<sup>24</sup> Consequently, all the issues raised in this discovery motion should be dealt with at this point rather than deferred for later consideration.

***3. Jeffrey’s Claim to Standing to Assess Whether Ruth’s Estate Should Seek Compensation for Her Services as Trustee Is Without Merit and Does Not Require the Extensive Discovery of the Trust Assets and those of Other Entities by Jeffrey***

Another reason for Jeffrey’s request for information about the Perelman Education Foundation is to “determine the amount of compensation due to Ruth, and now her Estate.”<sup>25</sup> Exactly why Jeffrey needs the extensive discovery he requests to determine whether Ruth “may be due compensation as trustee as expressly provided for in the governing document<sup>26</sup> is unclear. If, as Jeffrey suggests, Ruth was entitled to compensation by the document, wouldn’t that information suffice? Moreover, Raymond notes that Ruth never sought compensation for her

<sup>22</sup> See 7/29/13 Raymond Perelman Preliminary Objections, Ex. H, “Release, Indemnification and Waiver of Accounting Agreement,” ¶ 6..

<sup>23</sup> 8/26/13 Jeffrey Perelman Memorandum at 20.

<sup>24</sup> 8/26/13 Jeffrey Perelman Memorandum at 2-3.

<sup>25</sup> 6/27/13 Jeffrey Perelman Amended Petition, ¶62.

<sup>26</sup> 8/26/13 Jeffrey Perelman Memorandum at 2-3.



services as trustee for these charitable foundations during her lifetime. Since Jeffrey is one of the prime beneficiaries under her will, there is an element of self-serving in his requests. In any event, Jeffrey fails to explain why this discovery is necessary and therefore, his standing as to this request is unsupported.

***4. Jeffrey's Claim to Standing as a Successor Trustee Is Without Merit Because He Was Removed as Successor Trustee and As a Matter of Law***

Jeffrey Perelman had been named as a successor trustee to the Perelman Education Foundation in the initial August 21, 1995 trust agreement executed by both Ruth and Raymond Perelman. In that initial agreement, Raymond and Ruth provided that upon the death of both settlors, the trust would be divided into two succeeding trusts. Their son Ronald Perelman would then serve as sole trustee of one trust, while Jeffrey would serve as sole trustee of the other trust.<sup>27</sup> As described above, the trust agreement was thereafter frequently amended, and in the course of these amendments, Jeffrey was eliminated as a successor trustee, Ruth was removed as Co-Trustee while Raymond was given sole authority to amend the trust agreement. In highly subtle arguments, Jeffrey argues that Raymond's unilateral amendments of the trust agreement both before and after Ruth's death are invalid. In staking out this position, Jeffrey focuses of Item FOURTH of the August 21, 1995<sup>28</sup> Agreement of Trust which states:

FOURTH - - Irrevocability: This trust is expressly stated to be irrevocable; provided, however, that this trust, except for this Item FOURTH, may be amended at any time or times by written instrument or instruments signed and acknowledged by the Original Trustees then serving. However, no amendment shall authorize the Trustees to conduct the affairs of this trust in any manner or for any purpose contrary to provisions of Section 501(C)(3) of the Code.

On February 12, 1996, both Ruth and Raymond signed the "First Amendment and Restatement of the Raymond and Ruth Perelman Education Foundation" Trust Agreement that amended Item FOURTH of the August 21, 1995 Trust Agreement so that the trust "may be amended at any time or times by written instrument or instruments signed and acknowledged by RAYMOND PERELMAN" alone. Jeffrey does not contend that with this amendment the charitable purposes of the Education Foundation changed. Instead, he maintains, inter alia, that giving Raymond sole authority to amend the trust was ultra vires even though Ruth had signed this amendment. From this assertion, Jeffrey argues that Raymond's subsequent amendments of

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<sup>27</sup> August 21, 1995 Trust Agreement, Item SEVENTH (3)(b).

<sup>28</sup> See, e.g., 8/26/13 Jeffrey Perelman Memorandum at 6, 10-13.

the trust—including his removal of Jeffrey as successor trustee-- were all invalid without Ruth's joinder as Original Trustee.<sup>29</sup>

This argument is unpersuasive for a number of reasons. By its clear terms, Item FOURTH of the initial 1995 Trust Agreement provided that (1) the trust was irrevocable; and that (2) no amendment shall authorize the Trustees to conduct the affairs of this trust in any manner or for any purpose contrary to provisions of Section 501(c)(3). Otherwise, it permitted that the trust could be amended (except for Item FOURTH) at any time by a written instrument signed by the Original Trustees then serving. The February 12, 1996 First Amendment and Restatement which gave Raymond sole authority thereafter to amend the trust was, in fact, signed by both Original Trustees then serving: Ruth and Raymond. This amendment did not "amend" the other two provisions in Item FOURTH that the trust was irrevocable or that "no amendment shall authorize the Trustees to conduct the affairs of this trust in any manner or for any purpose contrary to the provisions of section 501(C)(3) of the Code."

By the clear terms of the initial 1995 Trust Agreement that Jeffrey cites, the 1996 amendment giving Raymond sole authority to amend the trust thereafter was validly executed "by written instrument or instruments signed and acknowledged by the Original Trustees then serving."<sup>30</sup> Since thereafter Raymond was the sole original trustee then serving, any subsequent amendments by Raymond alone were not invalid merely because Ruth did not participate. No essential charitable purpose of the Education Foundation was thereby harmed. In fact, Raymond asserts—without objection from Jeffrey—that since 2000, the Judaica, Education and Community Foundations have "facilitated more than \$250 million of charitable contributions from those Foundations."<sup>31</sup> For Jeffrey, however, a key element of the trust agreement was the provision "for the future of the Foundations with two separate, equal charitable trusts, one being administered by Jeffrey and his descendants, and one being administered by Ronald and his descendants."<sup>32</sup>

In his memorandum in response to Raymond's preliminary objections, Jeffrey essentially attacks the amendments that removed him as trustee by harking back to the initial language of Item FOURTH in the August 21, 1995 Agreement. He argues, inter alia, that Item FOURTH

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<sup>29</sup> 8/26/13 Jeffrey Perelman Memorandum at 11-13

<sup>30</sup> August 21, 1995 Trust Agreement, Item FOURTH.

<sup>31</sup> 9/18/13 Raymond Perelman Memorandum at 2.

<sup>32</sup> 8/26/13 Jeffrey Perelman Memorandum at 16.

required that any amendments to the trust agreement had to be made by both of the Original Trustees then serving. He then asserts that the 1996 agreement signed by both Ruth and Raymond was ineffective and could not give Raymond the unilateral authority to amend the agreement. This argument overlooks the obvious fact that both original trustees then serving by writing amended the 1995 Trust Agreement—in accordance with its exact terms. Consequently, any future amendments by Raymond were based in the February 26, 1996 written agreement of both original trustees then serving in 1996.

Jeffrey's position that the subsequent amendments by Raymond of the trust agreement were invalid or "ultra vires" is undermined by one of the cases he invokes, Solomon's Estate, 332 Pa. 462, 2 A.2d 825 (1938). In Solomon, the appellant's parents created an inter-vivos trust, specifying that the income should be paid in equal shares to the settlors' children for life. The trust gave the settlors the power at any time during their lifetime to amend the trust agreement by written document. The settlors subsequently executed a letter that directed the trustee to pay them one-third of the income rather than the appellant. Upon the death of the father, the appellant's mother directed the trustee to resume payment to the appellant, on the theory that he was to be only temporarily punished. The Pennsylvania Supreme Court, however, ruled that the letter executed by both settlors was conclusive and it amended the terms of the trust. Similarly, the February 12, 1996 amendment of the Perelman Education Foundation executed by both original trustees then serving, definitively amended the terms of the Perelman Education Foundation, giving Raymond thereafter unilateral authority to amend the trust. Like the letter in Solomon, the 1996 amendment is "clear and unambiguous." Solomon, 332 Pa. at 464. Not to honor it would violate the express terms of the initial Item FOURTH.

Moreover, even if Jeffrey had not been properly removed as successor trustee, under the scant case law on the standing of a successor trustee, Jeffrey's interest as successor trustee is neither direct nor immediate enough to give him standing. See, e.g. Estate of Briskman, 808 A.2d 928, 2002 Pa. Super. 287 (2002). Jeffrey invokes Estate of LeVin, 419 Pa. Super. 89, 99, 615 A.2d 38, 43 (1992) for the proposition that the broad, unfettered control he might have as the successor trustee of "hundreds of millions of dollars in a perpetual trust"<sup>33</sup> would give him standing to seek access to the foundation's books and records. This obscures, however, the complex procedural context in Levin which was a will contest in which a trustee was accused of

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<sup>33</sup> 8/26/13 Jeffrey Perelman Memorandum at 21.

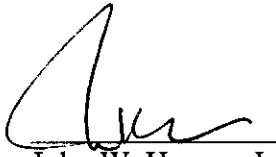
undue influence and the court concluded that the broad powers granted to the trustee sufficed to satisfy the “substantial benefit” element of the claimed undue influence. That narrow holding cannot be stretched here to grant Jeffrey standing to obtain the extensive access to the foundations’ books and records that he requests.

**Conclusion**

For all these reasons, Jeffrey Perelman does not have standing to seek the information he requests in his petition. As a consequence, it is not necessary to address his alleged failure to join or properly identify indispensable parties. The petitions Jeffrey Perelman filed seeking detailed, extensive information about the following foundations and trusts shall be dismissed:

- The Raymond and Ruth Perelman Education Foundation
- The Raymond and Ruth Perelman Community Foundation
- The Raymond and Ruth Perelman Judaica Foundation
- The Raymond G. Perelman Charitable Remainder Unitrust Under Agreement of Trust dated April 25, 1996
- The Raymond and Ruth Perelman Family Charitable Foundation Under Agreement of Trust dated April 25, 1996

BY THE COURT:



John W. Herron, J.