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- 7. Tract 1 Respondent as Trustee to Herself**
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Exhibit 1 -Forbes Appointment document

Appendix H – Trustee Appointment of Petitioner

Exhibit W - Forbes Trust Appointment Document

Appendix I - Circuit Court November 13, 2019 Transcript TR 7: 7-24

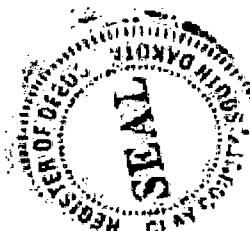
Appendix J - Tract 1 Illustration

125103

VOLUME 77 PAGE 2193

Prepared by:
Margaret Crew
1218 Kidder St #104
Vermillion SD 57069
605-624-2048

STATE OF SOUTH DAKOTA, County of Clay, SD
Filed for record this 17th day of AUGUST 2011
At 3:22 p.m. P.M. and Recorded in Book 77
of Deeds on Page 183
OR 17th day of AUGUST 2011
EXACT
Fee: \$10.00 plus
check



QUIT CLAIM DEED

Forbes-Robertson Group, by Gwen Nelson, Trustee, Grantor of Clay County, South Dakota, for no consideration, GRANTS, CONVEYS and QUIT CLAIMS to Gwendolien C. Nelson, Grantee, of 46508 313rd St, Vermillion SD 57069 PO the following described real estate in Clay County, South Dakota:

ANDERSEN'S TRACT 2 IN THE 5th OF THE SW^{1/4} OF SECTION 20, TOWNSHIP 93 NORTH, RANGE 51 WEST OF THE 5th P.M., CLAY COUNTY, SOUTH DAKOTA

Exempt from Transfer Fee SDOL 43-4-22(18).
Dated this 17th day of August, 2011.

Gwen Nelson
Gwen Nelson, Trustee of the Forbes-Robertson Group

STATE OF SOUTH DAKOTA

ss

COUNTY OF CLAY

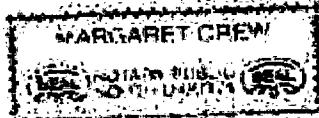
TRANSFER FEE	
PAID	EXEMPT
DATE 8-17-11	

On this 17th day of August, 2011, before me, Margaret Crew, the undersigned officer, personally appeared Gwen Nelson, Trustee of the Forbes-Robertson Group, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Margaret Crew
Notary Public

My comm exp 03-10-2017



E-76 -00574
VOL _____ PAGE _____

122344

PREPARED BY :

STEWART L. HINES
46508 313TH ST.
VERMILLION, SD 57069
605-638-0582

STATE OF SOUTH DAKOTA, County of Clay, ss
Filed for record this 24 day of May 2010
At 11:30 o'clock AM and Recorded in Book 76
of Deeds on Page 574
Betty McCambridge Register of Deeds
Deputy 12 pd ck

QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this 13 day of May 2010, by the
Grantor, FORBES-ROBERTSON GROUP BY GWENDOLYN NELSON, whose
mailing address is
46508 313TH ST. VERMILLION, SD 57069 to the
Grantee, GWENDOLYN C. NELSON, whose
mailing address is
46508 313TH ST. VERMILLION, SD 57069.

WITNESSETH, That the said Grantor, for good consideration and for the sum of
\$ 1.00 paid by the said Grantee, the receipt whereof is hereby acknowledged, does
hereby remise, release and quitclaim unto the said Grantee forever, all the right, title, interest and
claim which the said Grantor has in and to the following described parcel of land, and
improvements and appurtenances thereto in the County of CLAY, State
of SOUTH DAKOTA wit:

[LEGAL DESCRIPTION]

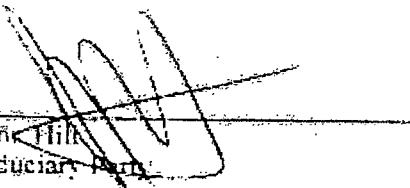
TRANSFER FEE	
PAID \$	EXEMPT <input checked="" type="checkbox"/>
DATE <u>May 24, 2010</u>	

Forbes-Robertson Group
A Pure Trust Organization

Gwendolen-Cleopha Nelson, Managing Agent for the Managing Fiduciary Party Powers and Authority

At a Special Meeting of the Managing Fiduciary Party(s), and in view of the powers of the undersigned Managing Fiduciary Party of delegating authority, a decision was made appointing Gwendolen-Cleopha Nelson as Managing Agent and consultant for specific business to be entertained in any political or geographic location. Gwendolen-Cleopha Nelson shall only have the authority in acting as Managing Agent for Forbes-Robertson Group, a Pure Trust Organization. Said Managing Agent has the power of executing agreements and or contracts conducting any business, and endorsing checks or drafts payable of Forbes-Robertson Group, P.T.O., the same as if the Managing Fiduciary Party(s) were doing such things themselves for said Organization. Gwendolen-Cleopha Nelson shall report to the Managing Fiduciary Party(s) and provide ample proof of such duties done on behalf of said Organization. Gwendolen-Cleopha Nelson shall be reimbursed by said Organization of any costs pertaining to performance of such duties. Gwendolen-Cleopha Nelson with said appointment as Managing Agent shall have no influence or affect on the decisions of the Managing Fiduciary Party(s), whom shall always act in the best interest of Forbes-Robertson Group, P.T.O., as prescribed by said Organization's DECLARATION OF CREATION AND CONTRACT.

Done this eighteenth day of February, in the year Two thousand three.


Joseph-Ruben Hill
Managing Fiduciary Party

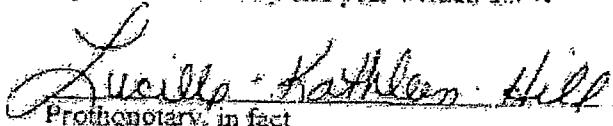
PROTHONOTARY STATEMENT

Wyoming Republic, orig. juris.

Laramie county, orig. juris.) affixed and attested under the Laws of True God

On this 18th day of February, in the year Two thousand three, before me, Lucille Kathleen Hill, a Prothonotary, by necessity, on and for the people of said state, Joseph-Ruben Hill is present before me, it is known or has been identified by me as being the people whose appellations/names are subscribed onto said Document, and witnessed by me that they executed the same.

In Witness Whereof, I as Prothonotary, in fact, have hereunto set my hand, placed my mark and affixed my seal on said day and year written above.


Lucille Kathleen Hill
Prothonotary, in fact



Forbes-Robertson Group
Resignation of Managing Fiduciary Party/trustee
Appointment of Succeeding Managing Fiduciary Party/trustee

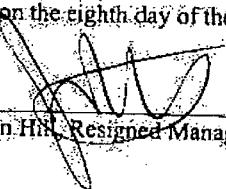
At a Special Meeting of the Board of Managing Fiduciary Party(s) (trustees), a decision was made by Joseph Ruben Hill, Resigning as a Managing Fiduciary Party/trustee of Forbes-Robertson Group, A Pure Trust Organization. Said Resignation is effective as of the day entered below, and Joseph Ruben Hill will no longer hold any position of trust as a Managing Fiduciary Party/trustee of Forbes-Robertson Group.

Also, a decision was made by the Resigning Managing Fiduciary Party/trustee, Joseph Ruben Hill, appointing Stewart Lyle Hines (currently a Managing Agent) as a Succeeding Managing Fiduciary Party/trustee for Forbes-Robertson Group. Said appointment is effective as of the day entered below and will have full force and effect from that day forward with Stewart Lyle Hines being, at this time, the sole Managing Fiduciary Party/trustee of Forbes-Robertson Group.

All Powers of Attorney issued by the Resigning Managing Fiduciary Party/trustee, specifically a "Specific Power Of Attorney" signed "12-13-16" shall be withdrawn and forever null and void.

Concerning the legal action previously brought forth by the Resigning Managing Fiduciary Party/trustee, specifically as a Plaintiff in a Complaint filed in STATE OF SOUTH DAKOTA, COUNTY OF CLAY, IN CIRCUIT COURT, FIRST JUDICIAL CIRCUIT, case number 13CTV18-000015, Joseph Ruben Hill shall withdraw as a Plaintiff, whereby Stewart Lyle Hines as the Succeeding Managing Fiduciary Party/trustee may be added as a Plaintiff at the discretion and approval of the Court, and can move forward with any further legal proceedings on behalf of Forbes-Robertson Group at his discretion.

Effective upon the eighth day of the tenth month, in the year Two thousand nineteen.


Joseph Ruben Hill, Resigned Managing Fiduciary Party.

This is Tract 1, Hines family home with 9 acres. Respondent Deeded Tract 1 from Forbes Trust to herself.

Brokered by: Maloney Real Estate



House For Sale 46508 313th Street
\$320,000 Sale Pending (Sold)

Petitioner Hines was never allowed to represent himself in recovering his home property in the Circuit and Supreme Courts of South Dakota.

Hines's Pro Se position was rejected by both State Courts. Pro Se is an acceptable representation in other State Courts.

Two hired attorneys made critical mistakes while draining Hines's limited resources(10K). Hines also faces appellate fines for 'Frivolous' attempts to have his case reviewed(11K).

Tract 2- 4 adjoining acres. Respondent self-deeded and sold.

APPENDIX I

1 STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
2 COUNTY OF CLAY)) :SS
3 JOSEPH RUBEN HILL, Managing) FIRST JUDICIAL CIRCUIT
4 Fiduciary Party, as a Trustee)
on behalf of Forbes-Robertson)
5 Group, a Pure Trust)
Organization,)
6) File No. 13CIV18-15
7 Plaintiff,) MOTIONS HEARING
8 vs.)
9 GWENDOLEN CLEOPHA NELSON,)
10 Individually and as a former)
Trust Managing Agent,)
11 Defendant.)
12

COPY

12 BEFORE: THE HONORABLE TAMI BERN, Circuit Court Judge, at
13 Vermillion, South Dakota, on November 13, 2019.

14 APPEARANCES

15 MR. STEWART L. HINES
16 2704 East Main Street
17 Vermillion, SD 57069-7034

18 Appearng on behalf of the plaintiff;

19 KEVIN J. LOFTUS, Attorney at Law
20 Kennedy, Pier, Loftus & Reynolds LLP
322 Walnut Street
Yankton, South Dakota 57078

21 Appearng on behalf of the defendant.

22
23 Reported by: Mary Anne Meyer, Official Court Reporter
24 211 West Main Street, Suite 300
Vermillion, South Dakota 57069
(605) 677-6757

1 INDEX TO PROCEEDINGS

2	In open court, at 10:30 a.m., 11-13-19	3
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4	Defendant objects to plaintiff's summary judgment motion ..	4
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14 INDEX TO EXHIBITS

15 No exhibits were marked herein.

16 * * *

17

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25

1 (In open court at 10:30 a.m., 11-13-19:)

8 Is that correct?

9 MR. LOFTUS: Cleopha.

10 **THE COURT:** -- *Cleopha, thank you, Nelson, Individually*
11 *and as a Former Trust Managing Agent, defendant, being a*
12 *Clay County Civil File 18-15.*

13 This matter is before the Court pursuant to -- bear
14 with me here -- plaintiff's motion for summary judgment,
15 defendant's objection to plaintiff's motion for summary
16 judgment, and defendant's motion to dismiss and for
17 summary judgment, right?

18 **MR. LOFTUS:** It's an alternative -- Yeah. It's an
19 alternative motion, Your Honor.

20 **THE COURT:** Just wanted to make sure I didn't miss
21 anything.

22 **MR. LOFTUS:** Yeah. And, Your Honor, I would, first of
23 all, object to Mr. Hines appearing as a -- as a party in
24 this. I think that, based on communications from the
25 plaintiff, it's not appropriate.

1 **THE COURT:** All right. Thank you. And I do think that's
2 an issue that the Court will need to resolve and is
3 relevant to these proceedings, but I will allow Mr. Hines
4 to make arguments as to that effect.

5 I will note for the record that Mr. Hill did contact
6 the clerk yesterday requesting permission to appear
7 telephonically, which I denied. The record will reflect
8 that the motion scheduled on behalf of plaintiff was filed
9 by Mr. Hines under the presumed authority of Mr. Hill's
10 power of attorney, and whether that authority exists or
11 not I think remains to be determined, and the Court will
12 consider argument to that effect.

13 So I think -- just procedurally, I think logically it
14 would make sense to first address defendant's objection to
15 plaintiff's motion for summary judgment, which -- the
16 basis of which was that defendant shouldn't even be
17 required to respond to the same. So, Mr. Loftus, you may
18 proceed --

19 **MR. LOFTUS:** Thank you, Your Honor.

20 **THE COURT:** -- as to argument on that issue.

21 **MR. LOFTUS:** May I remain seated?

22 **THE COURT:** You may.

23 **MR. LOFTUS:** Your Honor, a couple of things. Initially,
24 the notion of an individual party turning over their power
25 to -- particularly a fiduciary relationship turning over

1 their power to represent the fiduciary in a legal
2 proceeding, I -- I'm unable -- I'm unable to find anything
3 that would -- that would provide that authority, Your
4 Honor.

5 And so in this instance, it looks -- it appears that
6 Mr. Hines is a pro se representative of a pro se party,
7 and, in effect, he's practicing law without a license.
8 He's not a party, Your Honor.

9 Besides that, whether the POA itself is valid or not,
10 plaintiff himself has put that into question. There's
11 been -- This is absolutely one of the most confusing cases
12 I have ever, ever been involved in, and the -- I think
13 it's -- it's designed to be that way.

14 And so I received, as the Court's aware, an e-mail
15 from Mr. Hill dated October 9, 2019, after my attempts to
16 procure Mr. Hill's deposition, which he did not appear for
17 after acknowledging that he'd received notice of it; and
18 Mr. Hill explicitly told me that -- that Mr. Hines'
19 activities in filing two summary judgment motions were
20 without his knowledge and were without his authority to do
21 and they were based on what he described as an outdated
22 POA.

23 So whether or not Mr. Hill had, at some time or not,
24 given Mr. Hines authority to act on his behalf, Mr. Hill
25 made it clear to me that that -- that POA did not extend

1 to Mr. Hines filing, in his own name on behalf of
2 Mr. Hill, these pleadings, Your Honor. And as such, I
3 relied on that representation by Mr. Hill, which, again, I
4 understand is dubious at best, to -- in responding to his
5 motion for summary judgment and in objecting to those
6 summary judgment motions moving forward.

7 I think, Your Honor -- I think at the very least his
8 motions should not be heard today. If the Court were to
9 determine that somehow Mr. Hines has any standing here
10 whatsoever, that I -- we would be given an opportunity to
11 fully respond to those -- they're -- I won't -- I won't
12 characterize the motions themselves, because they're
13 inexplicable. But it would only be fair, Your Honor, that
14 we be given sufficient time to respond to those.

15 I don't think it's necessary, Your Honor, because I
16 think this case can be dealt with on my summary judgment
17 motions, but I don't think there's any basis under any
18 authority that I'm aware of that would give Mr. Hines the
19 right to represent Mr. Hill as a -- as a pro se plaintiff.

20 **THE COURT:** Thank you.

21 And, Mr. Hill, as referenced -- or Mr. Hines, as I
22 referenced before, you know, I'm not making the
23 determination right now as to whether you have the
24 authority to appear on behalf of Mr. Hill; but for
25 purposes of this hearing today, I'll allow you an

1 opportunity to respond to that argument Mr. Loftus just
2 made.

3 **MR. HINES:** Yes. First of all, he couldn't find anything
4 that said I couldn't represent myself in this situation as
5 a -- with a POA. He didn't reference anything that said I
6 could not. It's just speculation on his part.

7 I would like to submit to the Court something that
8 just came to me, and I copied it this morning and brought
9 it in. I didn't know if you would -- And it's Mr. Hill's
10 resignation, dated the 8th of last month -- and again, I
11 just received this -- and appointing me as the trustee.
12 So I would have standing in this situation.

13 **THE COURT:** Okay. And, you know, I would note, just based
14 on that, the parties are the parties named unless the
15 Court changes that designation, and this would be, in the
16 Court's opinion, of no effect in regard to this issue
17 here.

18 The issue I'm deciding right now really isn't even a
19 standing issue, but -- and I don't even think I'm going to
20 reach the issue right now of whether a power of attorney
21 has the authority to act as a pro se representation for
22 the principal for these purposes. I'm going to take that
23 under advisement, and I'm taking your motions under
24 advisement.

25 But the motion for summary judgment is flawed,

1 obviously, because it's based on this affidavit in support
2 of motion for summary judgment which is signed by
3 Mr. Hines as the POA for Mr. Hill. And while I can't tell
4 you 100 percent right now whether he can act as his pro se
5 representation or representative for these proceedings, he
6 clearly cannot make an affidavit based on information and
7 belief as a POA for the principal.

8 So, therefore, this affidavit is of no effect, and
9 therefore there's no basis for the motion for summary
10 judgment upon -- which rested upon that affidavit.

11 So Mr. Loftus' motion requesting that he not even be
12 required to respond to the plaintiff's motion for summary
13 judgment is granted because the plaintiff's motion for
14 summary judgment is based upon this affidavit which is of
15 completely no effect because it was signed by Mr. Hines as
16 POA, which you can't -- you clearly cannot do in regard to
17 a fact-based document such as an affidavit.

18 So that matter has been disposed of. And then I will
19 go ahead and proceed to consider argument.

20 And, Mr. Hines, again, I'll let you argue today, just
21 in the interests of giving everyone the opportunity to be
22 heard, and then it is my intent to take the motion to
23 dismiss and defendant's motion for summary judgment under
24 advisement. Because I agree with Mr. Loftus: This is
25 incredibly confusing and complicated, and I need some more

1 time to work on it.

2 But I will consider any oral argument you would like
3 to make at this time to supplement your pleadings,
4 Mr. Loftus.

5 **MR. LOFTUS:** Thank you, Your Honor. I would add also
6 that, based on, you know, the Court's representation that
7 Mr. Hill himself has called in asking for permission to
8 appear on his own, I'm not aware, Your Honor, whether --
9 whether he -- he then at that point requested that
10 Mr. Hines be -- be placed or appear on his behalf or not.
11 But it doesn't appear that that occurred, Your Honor.

12 So all -- all indications are -- is that Mr. Hill
13 understands his obligations as a party here but is just
14 ignoring them, and that he -- he was not using any -- or
15 supporting that a POA should be in his place here, because
16 he intended to appear himself by telephone.

17 Your Honor, my -- my motion -- first of all, I think
18 the very fact that the plaintiff isn't here today, after
19 acknowledging that he was aware of the hearing, that --
20 aware that he could not appear telephonically, had not
21 made any arrangements for him to have an attorney
22 represent him here, and did not acknowledge to the Court,
23 through his request for a telephonic appearance, that
24 Mr. Hines could or should appear on his behalf is, part
25 and parcel, representative of everything that's occurred

1 in this case since day one.

2 This case is -- is patently a frivolous case. There
3 has been zero activity in this case since approximately
4 April, I think, of 2018, the -- when they brought several
5 motions that the Court deferred for -- for discovery.

6 I think the Court made its -- it may have been May,
7 early May, like maybe May 1 or 2, and I think I've
8 addressed that in my brief, Your Honor -- or, I mean, in
9 my motion, that the -- To be honest, Your Honor, wrapping
10 my head around this has been rather difficult, and some of
11 the things that I argue as a -- as a basis for dismissal
12 of this case are also a basis for summary judgment and
13 vice versa.

14 But for purposes of my motion to dismiss for failure
15 to prosecute, Your Honor, it's unequivocal that there's
16 been no activity by the plaintiff himself in this case.
17 It is his representation to me that he's been unaware of
18 any activity in this case since those -- those early
19 motions in this case over a year ago.

20 And on my attempt to -- The Court had said in those
21 earlier denied orders that -- or notices of hearing that
22 the Court wouldn't hear any more motions until discovery
23 occurred. There's been no attempts by plaintiff
24 whatsoever to conduct any discovery at all.

25 When the Court set this matter for hearing for today,

1 I immediately proceeded to try to get a deposition of
2 Mr. Hill for purposes of my own summary judgment motion to
3 try and get this thing resolved.

4 Now, I would point out -- and obviously not for the
5 Court's edification, but for Mr. Hines', maybe -- that
6 Ms. Nelson is under no obligation whatsoever to keep this
7 case moving. This is not her case. She is defending
8 against it. And if Mr. Hill determined to just let it
9 languish and use it as a leverage tool to -- you know,
10 sitting out there to effect whatever extortion that
11 they're trying to effect on my client, he waited too long.

12 And this matter has rolled along, rolled along, until
13 the Court finally said "Enough. We're going to get this
14 addressed now." And I did file a summary judgment motion.
15 I did attempt to do discovery, as the Court ordered, and
16 Mr. Hill simply didn't show up, told me I have to
17 reschedule and do -- basically do a deposition on somebody
18 else because he didn't want to be involved anymore.

19 I know that this is not in front of the Court at this
20 moment, but I believe that there has been a recent filing
21 yesterday of another motion. It was not noticed for
22 today. So it is not -- you know, on its merits, not
23 before the Court. But I would suggest that Mr. Hill makes
24 many admissions about the impropriety of this case in his
25 affidavit in support of that motion and, in fact, suggests

1 at the very end of it that this case should be dismissed.

2 He wants out, Your Honor. And the notion that --
3 that Mr. Hines should now walk in as the new plaintiff in
4 this case underscores my arguments in summary judgment
5 that whatever Forbes-Robertson Group is, it's not a
6 business entity that I recognize at all. Plaintiff denies
7 that it fits under any business category that exists.

8 It's not a trust, because whatever they want to call
9 it, neither of these properties were ever deeded to a
10 trustee. It's not a trust even without the property in
11 it, because it's not an agreement -- Well, first of all,
12 we don't have an agreement. We don't have a signed
13 agreement at all. We have a draft of it now, which I only
14 reviewed when -- frankly, when forced to in responding to
15 Mr. Hines' motion.

16 It's apparent that if it was -- if a document such as
17 that was ever signed, it was an agreement signed by a
18 trust -- by a so-called trustee on behalf of nobody, on
19 behalf of unknown -- unknown persons over unknown
20 property, and it's not a trust agreement of any sort. I
21 don't know what it is. It's a part of a criminal scheme
22 that stems back to plaintiff -- plaintiff's activities in
23 Wyoming. And, you know, with all due respect, Your Honor,
24 I guess if you're not a criminal, you wouldn't understand
25 what it is.

1 And so this case is -- is -- from the
2 standpoint of having to address plaintiff's arguments, is
3 outrageous. I mean, it is -- it is simply an outrageous
4 case. What the case actually is is a failed relationship
5 between my client and Mr. Hines, who sits there.

6 Whatever Mr. Hines' purposes for participating in the
7 creation of Forbes, whatever Forbes may be, he --

8 **MR. HINES:** Your Honor, may I object?

9 **THE COURT:** Not during argument. And I'll allow you the
10 opportunity to make argument.

11 **MR. HINES:** Okay.

12 **THE COURT:** Continue.

13 **MR. LOFTUS:** Your Honor, my client was in a long-term
14 relationship with Mr. Hines, got brought in well after the
15 fact with some apparent authority to operate under, again,
16 whatever Forbes might be, and Mr. Hill and Forbes, as
17 an -- as an operation or -- again, I don't know what it
18 is -- never really was part of it. It's just a name. And
19 as I suggested a few minutes ago, it's really a fake ID
20 for -- for Mr. Hines.

21 It's still Mr. Hines. There's -- there's no --
22 there's no fiduciary relationship between Forbes or a
23 trustee or anybody else over the properties that are at
24 issue in this case. It's just these two. And they used
25 the property as their own because it was theirs. And when

1 they broke up, they entered into an agreement and split
2 the property up, and off it went.

3 Mr. Hill's never been part of this. And so this
4 notion that he can now come in here and represent himself
5 as being some sort of fiduciary over the property is,
6 again, part of this ongoing criminal scam that he has
7 been -- he has been operating under which resulted in his
8 multiple felony convictions.

9 I'm not an expert in business structures, Your Honor,
10 and so I spent more time than I should have had to spend
11 trying to understand what -- what Forbes might be. And
12 what I'm able to discern is that it's not really anything.
13 It's from a different state, operated by somebody from a
14 different state, but there's no real operation out of it
15 whatsoever. It claims, based on papers that we don't
16 actually have -- We have unsigned documents. We have
17 snippets from this -- what they call a declaration, with
18 nothing to identify it as being part of an actual executed
19 document, that they -- that they want you to believe is --
20 is -- carries some force -- some force of law.

21 But at the same time, there are parts of this
22 document that are -- that say "We're not subject to any
23 laws" and, you know, you can't -- the Court can't hold it
24 responsible pursuant to any -- any statutes or legislation
25 or anything.

1 So for -- just on the basis of having to respond to
2 this, Your Honor, it's totally inequitable. This is a
3 shell game, and we're being -- we're being demanded --
4 we're being forced to guess what's under a particular
5 shell, and that the equity in having to respond to this
6 is -- it doesn't exist.

7 So I don't know whether Mr. Hill has standing,
8 because I don't know what Forbes is. But based on what I
9 do know, based on Mr. Hill's representations, and based on
10 the fact that there's no record of Forbes-Robertson Group
11 in the state of South Dakota except for a couple of deeds,
12 I don't know on what basis he would have standing to bring
13 this suit.

14 It is clearly -- Clearly Mr. Hill comes to this
15 matter with unclean hands. This has been a means of
16 extorting money or extorting property or extorting benefit
17 to Mr. Hines. Again, not part of this matter, but Mr. --
18 Mr. Hill's recent filing admits that if he's successful in
19 his case, in his summary judgment, if Stew is -- if
20 Stewart Hines is successful in the summary judgment, Your
21 Honor, that it will be Mr. Hill's intention to sign the
22 property immediately over to him.

23 So it just -- again, it just underscores this notion
24 that this -- Mr. -- Mr. Hill is a strawman for Mr. Hines
25 and that he ceded all authority for whatever Forbes is

1 over to these two to do whatever they're going to do with
2 whatever property belongs to them. And they did. They
3 worked it out between the two of them, and Mr. Hines now
4 wants to renege on this agreement and extort money out of
5 my client.

6 You know, what I want the Court to do is to find that
7 the statute of limitations has run on this case either by
8 the fact that it gets dismissed on its merits from a --
9 you know, from failure to prosecute -- which I think is
10 clear. And the conduct of the plaintiff and his -- and
11 Mr. Hines in this case, if he's -- if he actually has any
12 authority to be here and speak on behalf of the plaintiff,
13 has been egregious, you know, to use a word that the
14 statute notes.

15 But if we -- if we dismiss this on the merits, if we
16 dismiss this on statute of limitations, it's done. This
17 is round two now, Your Honor. This is Mr. Hines coming
18 back for a second bite of the apple, hoping that he can
19 still get -- he'd get something for nothing here.

20 That's all I have, Your Honor.

21 **THE COURT:** Thank you.

22 Mr. Hines, any argument you would like me to
23 consider?

24 **MR. HINES:** Wow, that was interesting. That was a
25 complete reargument of all the previous claims --

1 counterclaims of the whole case, threats of criminality
2 and extortion. And we have a common-law trust which is --
3 it states it's a common-law trust. Doesn't have to be
4 this business entity. We went through that previously.

5 We're here to talk about a summary judgment. All of
6 these conversations that Mr. Loftus has had with Mr. Hill,
7 I -- I'm totally unaware of them and had waited for some
8 kind of response from Mr. Loftus so I kind of knew what we
9 would be talking about today, what I needed to be prepared
10 for. Common-law trust doesn't have to have this business
11 entity and should have -- seems to be very confusing to
12 Mr. Loftus.

13 But Ms. Nelson took property from this common-law
14 trust under the guise of being a lawful trustee of that
15 trust. That's how she acquired the property. It wasn't
16 under any other method. So she wrote these quitclaim
17 deeds, removed property from the trust, and how else she
18 could have acquired that property is -- I'd like to know.

19 And we haven't -- we haven't talked about that. We
20 talked about -- finally, at the very end, we talked about
21 statute of limitations, and that would probably reflect
22 back to some fiduciary arguments.

23 You can't, in this state, commit concealment -- fraud
24 by concealment if you have a fiduciary relationship. It
25 isn't until that fraudulent action is recognized, if that

1 relationship, fiduciary relationship, exists, that the
2 statute of limitations starts. That would make this
3 particular claim for return of the property out into the
4 next year sometime.

5 So those are just the basic arguments that I brought
6 here for summary judgment: that the quitclaim deeds were
7 illegal by South Dakota statutes, that whether Ms. Nelson
8 wants to call herself a managing agent or a trustee makes
9 no difference. You cannot, in that capacity, remove trust
10 property for personal gain. And so that was basically the
11 argument: Statute of limitations are still in effect.
12 The deeds were illegal.

13 How we proceed -- proceed at this point, I -- I -- I
14 hope that if we have to reject the summary judgment
15 presented today that had to be put together -- well, you
16 don't need to go into that, but it was a difficult process
17 to put that together, to assume a power of attorney would
18 be adequate. If we need to continue, I hope we'll leave
19 the door open for future action.

20 South Dakota Codified Law 15-11-11, dismissal --
21 dismissal for want of prosecution, the one-year limit, it
22 looks like some kind of request for dismissal should have
23 been given to us to let us know that that was going to be
24 a concern.

25 And a good reason not to dismiss in this case is that

1 there still are real issues. And so I hope that the Court
2 will keep that in mind.

3 And again, I thought that Mr. Loftus today went --
4 you know, retried the case. The same arguments they
5 brought up -- brought up in counterclaim that were
6 responded to has nothing do with the summary judgment that
7 is before us today. Not his summary judgment, but mine
8 for Forbes-Robertson. And so, if we have to leave here
9 today, I think the door will still be open to discuss
10 these issues. That's all I have to say.

11 **THE COURT:** So as I referenced earlier, I am taking
12 defendant's motions under advisement. When I don't have
13 to, I prefer not to write, so this is what I'm going to
14 do, is, I'm going to set the matter for another hearing.
15 I may issue a written decision before then, and if I do,
16 we won't have that hearing. If I haven't, we will go on
17 record and I'll issue an oral decision that day.

18 I'm kind of tight through the holidays, so I'm going
19 to set it for 9:30 on Wednesday, January 8. And, like I
20 said, you very well may receive a written decision from me
21 before then, but in case you don't, that's going to be
22 when we'll have the decision issued orally.

23 **MR. LOFTUS:** Your Honor, could I -- could I briefly
24 respond to a couple of things?

25 **THE COURT:** You may.

1 **MR. LOFTUS:** Your Honor, the -- I'm not sure if Mr. Hines
2 is confused about -- about my motion or not, but I didn't
3 serve it on him. He's not a party. I served it on the
4 plaintiff in this matter, and if plaintiff chose not to
5 provide it to Mr. Hines, that's their concern.

6 But Mr. Hines is clearly -- clearly confused about
7 what a common-law trust is, and even if -- which it's not,
8 Your Honor -- even if Forbes were a common-law trust, the
9 property never went to a trustee of a common-law trust.
10 It was never deeded to a trustee. I've -- I've recited
11 the statutes and the rationale behind the fact that a
12 trust is not a person, which is why you can't transfer
13 trusts -- or transfer property to a -- an agreement. A
14 trust is an agreement.

15 And so again, those deeds are largely ineffective for
16 purposes of -- of what Mr. Hines considers a common-law
17 trust. I am quite familiar with trusts, Your Honor, and
18 so it's clear that he is not. Whoever has been advising
19 him is not.

20 This notion of fraudulent concealment, I think I
21 addressed that in my brief, Your Honor. These deeds have
22 been of record since the day after they were executed,
23 well past the six-year statute of limitations in both
24 cases -- both cases. It's clear that Mr. Hill was on
25 constructive notice of these publicly filed documents.

1 There was no fraudulent concealment whatsoever.

2 I've also made the argument about agency, Your Honor,
3 and I think the only reason that that really applies under
4 the circumstances, I -- I'll concede that that's a hard
5 argument because it -- there's some suggestion that, as
6 agents, they didn't notify Mr. Hill.

7 But under the circumstances that are apparent from
8 the undisputed record so far, Your Honor, he didn't
9 require any -- any reporting from these two. He ceded all
10 of his authority and control over the properties that
11 were -- that were supposedly under his control to these
12 two, and they operated it like -- like it was their own
13 anyway. So this notion that there was some duty to report
14 back and forth between the two of them is in itself a
15 sham.

16 Mr. Hill was on notice of my summary judgment motion,
17 which includes my claim for barratry, which includes my
18 request for Rule 11 sanctions, Your Honor, but I would
19 also point out that under SDCL 15-17-51, that if the Court
20 does find that this is a frivolous action -- this has been
21 a frivolous action and that it's dismissed as a frivolous
22 action, the Court shall order the party whose claim, cause
23 of action, or defense was dismissed or denied to pay part
24 of the or all of the expenses incurred by the party
25 defending that matter.

1 And I think this case, if ever, is ripe for that; and
2 I believe the Court has its own discretion to apply that
3 statute. And actually maybe not, because it says "shall."
4 And so, Your Honor, that may also be another means for the
5 Court to ensure that this case does not come back again
6 for round three.

7 **THE COURT:** Thank you. I understand the parties'
8 positions.

9 So you'll either hear from me or I'll see you back in
10 January. Thank you, folks, for your time.

11 * * *

12 END OF PROCEEDINGS AT 11:07 A.M., 11-13-19.

13 * * *

14 STATE OF SOUTH DAKOTA)
15 COUNTY OF CLAY) :SS

16 | CERTIFICATE OF REPORTER

17 I, Mary Anne Meyer, Registered Diplomate Reporter,
18 Notary Public in and for the State of South Dakota, hereby
19 certify that I was present for and reported the proceedings
as described on page 1 herein, and that this transcript
contains a true and correct record of the proceedings so had.

To all of which I have hereunto set my hand this 25th
20 day of October, 2020.

21 Mary Anne Meyer

22 MARY ANNE MEYER, RDR
Official Court Reporter
23 211 West Main Street, Suite 300
Vermillion, South Dakota 57069
24 (605) 677-6757

25

MR. HINES: [4] 7/3 13/8 13/11 16/24	22/12 able [1] 14/12 absolutely [1] 5/11 acknowledge [1] 9/22 acknowledging [2] 5/17 9/19 acquired [2] 17/15 17/18 act [4] 2/6 5/24 7/21 8/4 action [6] 17/25 18/19 21/20 21/21 21/22 21/23 activities [2] 5/19 12/22 activity [3] 10/3 10/16 10/18 actual [1] 14/18 actually [4] 13/4 14/16 16/11 22/3 add [1] 9/5 address [2] 4/14 13/2 addressed [3] 10/8 11/14 20/21 adequate [1] 18/18 admissions [1] 11/24 admits [1] 15/18 advisement [5] 2/11 7/23 7/24 8/24 19/12 advise.....7 [1] 2/6 advising [1] 20/18 affidavit [7] 8/1 8/6 8/8 8/10 8/14 8/17 11/25 after [5] 5/15 5/17 9/18 13/14 20/22	appearing [4] 1/17 1/20 2/3 3/23 appears [1] 5/5 apple [1] 16/18 applies [1] 21/3 apply [1] 22/2 appointing [1] 7/11 appropriate [1] 3/25 approximately [1] 10/3 April [1] 10/4 argue [2] 8/20 10/11 argument [11] 4/12 4/20 7/1 8/19 9/2 13/9 13/10 16/22 18/11 21/2 21/5 arguments [6] 4/4 12/4 13/2 17/22 18/5 19/4 around [1] 10/10 arrangements [1] 9/21 asking [1] 9/7 assume [1] 18/17 attempt [2] 10/20 11/15 attempts [2] 5/15 10/23 attorney [5] 1/18 4/10 7/20 9/21 18/17 authority [12] 4/9 4/10 5/3 5/20 5/24 6/18 6/24 7/21 13/15 15/25 16/12 21/10 aware [5] 5/14 6/18 9/8 9/19 9/20	brought [6] 7/8 10/4 13/14 18/5 19/5 19/5 business [5] 12/6 12/7 14/9 17/4 17/10	confusing [3] 5/11 8/25 17/11 consider [4] 4/12 8/19 9/2 16/23 considers [1] 20/16 constructive [1] 20/25 contact [1] 4/5 contains [1] 22/19 continue [2] 13/12 18/18 control [2] 21/10 21/11 conversations [1] 17/6 convictions [1] 14/8 copied [1] 7/8 correct [2] 3/8 22/19 could [6] 7/6 9/20 9/24 17/18 19/23 19/23 couldn't [2] 7/3 7/4 counterclaim [1] 19/5 counterclaims [1] 17/1 COUNTY [3] 1/2 3/12 22/15 couple [3] 4/23 15/11 19/24 Court's [4] 5/14 7/16 9/6 11/5 creation [1] 13/7 criminal [3] 12/21 12/24 14/6 criminality [1] 17/1
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