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NO. 88, ORIGINAL

IN THE
Supreme Court of the United States
OCTOBER TERM, 1982

STATE OF CALIFORNIA,
Plaintiff,

v.

STATE OF TEXAS, *et al.,*
Defendants.

**ANSWER OF DEFENDANTS
WILLIAM R. LUMMIS AND
FIRST NATIONAL BANK OF NEVADA**

O. CLAYTON LILIENSTERN*
PATRICIA STEVENSON GREEK
ANDREWS & KURTH
4200 Texas Commerce Tower
Houston, Texas 77002
(713) 220-4080

Of Counsel:

PROFESSOR
JAMES WILLIAM MOORE
New Haven, Connecticut

*Attorneys for Defendants
William R. Lummis and First
National Bank of Nevada*

* Counsel of Record

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Defendants William R. Lummis, the Temporary Administrator of the Estate of Howard Robard Hughes, Jr. ("Estate") in Texas, the Ancillary Administrator of the Estate in Delaware, the Provisional Administrator of the Estate in Louisiana and a Co-Special Administrator of the Estate in Nevada, and First National Bank of Nevada, a Co-Special Administrator of the Estate in Nevada ("Administrators"), file this Answer and allege as follows:

1. Based on the Court's opinion in *California v. Texas, et al.*, ____U.S.____, 102 S.Ct. 2335 (1982), the Administrators admit the allegations contained in

paragraph 1, except that the Administrators do not have sufficient information and are therefore unable to either admit or deny the allegation that neither Texas nor California is, or will become, a party to the proceedings in the other's courts.

2. (a) The Administrators admit the allegations contained in paragraph 2(a).
(b) The Administrators admit the allegations contained in paragraph 2(b).
(c) Based on the Court's opinions in *Cory v. White, et al.*, ____U.S.____, 102 S.Ct. 2325 (1982) and *California v. Texas, et al.*, ____U.S.____, 102 S.Ct. 2335 (1982), the Administrators admit the allegations contained in paragraph 2(c).
3. The Administrators admit the allegations contained in paragraph 3. Based on a thorough factual investigation of Mr. Hughes' life, the Administrators assert that Mr. Hughes died domiciled in Nevada and not in California or Texas.
4. The Administrators admit the allegations contained in paragraph 4.
5. The Administrators admit the allegations contained in paragraph 5.
6. The Administrators admit the allegations contained in paragraph 6.
7. The Administrators admit the allegations contained in paragraph 7.
8. The Administrators admit the allegations contained in paragraph 8.

9. The Administrators admit the allegations contained in paragraph 9.
10. The Administrators admit the allegations contained in paragraph 10.
11. The Administrators admit the existence of the agreement. The Administrators admit that, under California law, the estate of Annette Gano Lummis is the sole heir of the Estate. The Administrators deny that Annette Gano Lummis will be liable for the entire California tax due and that the other heirs who are parties to the agreement will, to the extent that they inherit property pursuant to said agreement, be jointly and severally liable for their proportionate share of the California tax relating to the assets so acquired by them.
12. The Administrators admit the allegations contained in paragraph 12.
13. The Administrators admit that Mr. Hughes was born in Texas in 1905. They admit that he resided in Texas until 1926. They deny that thereafter he became a California domiciliary. They admit that he was present in California at various times until 1966, but deny that such presence was continuous or of such a permanent nature as to result in the acquisition of a California domicile. They admit that Mr. Hughes acquired some business holdings and relationships in California. The Administrators admit that Mr. Hughes filed non-resident income tax returns in California, and paid taxes at the resident rate, but assert that such taxes were paid under protest. The Administrators deny that Mr. Hughes' only known extended absence from California during

this forty-year period was in 1953-54, when he resided in Nevada. The Administrators assert that Mr. Hughes was absent from California on many occasions between 1926 and 1966, thereby making his presence in California of a transient nature. The Administrators assert that in 1953 Mr. Hughes moved to Nevada where he acquired a domicile of choice. The Administrators assert that after leaving California in 1966, Mr. Hughes traveled successively to Boston, Las Vegas, the Bahamas, Nicaragua, Canada, Nicaragua, London, the Bahamas and Mexico and admit that he lived in hotel rooms in these various locations. The Administrators deny that Mr. Hughes never acquired a domicile after 1966 and assert that between 1966 and 1970 Mr. Hughes acquired a domicile of choice in Nevada. The Administrators deny that during this time period Mr. Hughes retained his personal and business ties to California. The Administrators further deny that the "nerve center" of his business operations remained in California. The Administrators admit that Mr. Hughes died on April 5, 1976 in an airplane en route to Houston, Texas.

14. The Administrators admit the allegations contained in paragraph 14.
15. The Administrators admit the allegations contained in paragraph 15, except they deny that the Texas Co-Temporary Administrators asserted that Mr. Hughes acquired first a California domicile. The Administrators do not have sufficient information and therefore are unable to either admit or deny the allegations that California is not a party to and will not be bound by any judgment entered in the Texas proceeding.

16. The Administrators admit the allegations contained in paragraph 16.
17. The Administrators admit the allegations contained in paragraph 17.
18. The Administrators admit the allegations contained in paragraph 18.
19. The Administrators admit that the issue of Mr. Hughes' domicile is pending in the courts of California and Texas, with the Estate, through the personal representative in each state, asserting Nevada domicile in each jurisdiction. The Administrators do not have sufficient information and therefore are unable to either admit or deny the allegation that neither Texas nor California is, or will become, a party to the proceedings in the other's courts, with the result that neither will be bound by an adverse determination in the other's forum.
20. The Administrators admit the allegations contained in paragraph 20.
21. The Administrators admit the allegations contained in paragraph 21, but deny that the holding by the Court of Appeals that the Los Angeles County Treasurer is a claimant is now clearly incorrect.
22. The Administrators admit the allegations contained in paragraph 22.
23. The Administrators admit the allegations contained in paragraph 23, except that they do not have sufficient information and therefore are unable to either admit or deny that each state utilizes the identical legal definition of domicile. They further assert that Mr.

Hughes died domiciled in Nevada, a claim that is wholly inconsistent with the claims of California and Texas.

24. The Administrators admit that Texas claims a lien on all intangible assets of the Estate to secure its domicile-based death tax claim. The Administrators admit that California asserts an identical lien. The Administrators deny that Mr. Hughes was a domiciliary of California. The Administrators admit that Mr. Hughes was not a domiciliary of Texas and admit that the Texas lien is invalid. The Administrators reassert that based on an extensive factual investigation they have concluded that Mr. Hughes died domiciled in Nevada. Based on that assertion the Administrators assert that the liens claimed by Texas and California on all intangible assets of the Estate to secure their domicile-based death tax claims are invalid.
25. Based on the Court's opinions in *Cory v. White, et al., supra*, and *California v. Texas, et al., supra*, the Administrators admit the allegations contained in paragraph 25.
26. The Administrators admit that the domicile claim of Texas is without factual basis. The Administrators admit that if unrestrained, Texas will endeavor to perfect its trial court judgment of Texas domicile and to enforce that judgment and its asserted lien on intangible assets to secure payment of Texas death taxes. The Administrators do not have sufficient information to admit or deny the prediction made by California that it is highly probable that this will occur before California can obtain a final judgment

in its own courts on its death tax claim. The Administrators admit that the overwhelming majority of the Estate's tangible assets are located outside of California. The Estate intends to administer the tangible assets in the states where those assets are located. The Administrators admit that the assets of the Estate are insufficient to satisfy the death tax claims of both Texas and California and to the extent that the claim of one state were fully satisfied, the claim of the other state could not be fully satisfied. The Administrators do not have sufficient information to admit or deny the assertion that the mere existence of the inconsistent Texas claim—and the lack of any alternative forum in which to obtain a determination of domicile binding on both states—will substantially impair the opportunity California might otherwise have to negotiate a fair and reasonable compromise of its tax claim against the Estate. The Administrators do not have sufficient information to admit or deny California's prediction that it will be irreparably injured if Texas is permitted to impose and collect an inheritance tax based on a determination by a Texas court of a Texas domicile.

27. The Administrators admit that this suit is being brought on behalf of the State of California and not on behalf of the Estate but deny the validity of the asserted California tax lien because Mr. Hughes was not domiciled in California at death.
28. Except as to the allegations which are admitted in paragraphs 1 through 27, all other allegations contained in the Complaint are denied.

WHEREFORE, the Administrators pray that:

- (a) The Court adjudge and declare that Mr. Hughes was domiciled in Nevada and, therefore not in any other jurisdiction, at the time of his death, and that all parties to this action abide by that declaration;
- (b) The Court adjudge and declare that the Estate and/or the heirs are not liable to either Texas or California for death taxes levied on intangibles of the Estate;
- (c) In the alternative, should the Court determine that Mr. Hughes was domiciled in a jurisdiction other than Nevada, then adjudge and declare in which other jurisdiction Mr. Hughes was domiciled at death and further adjudge and declare that he was domiciled only in that jurisdiction at death and that all parties to this action abide by that declaration; and
- (d) The Court grant such other and further relief as may be just and proper.

DATED: August 12, 1982.

Respectfully submitted,

O. Clayton Lilienstern

O. CLAYTON LILIENSTERN*
PATRICIA STEVENSON GREEK
ANDREWS & KURTH
4200 Texas Commerce Tower
Houston, Texas 77002
(713) 220-4080

Of Counsel:

PROFESSOR
JAMES WILLIAM MOORE
New Haven, Connecticut

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