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ALAN F. CLARK, as Guardian
of the Estate of Howard G.
Clark, Jr.

CIRCUIT COURT, TENTH JUDICIAL

PLAINTIFF

VS.

GRADINE E. EDWARDS, also
known as Frances E. Edwards

DEFENDANT

CIRCUIT OF ALABAMA	
FILED IN	COURT
302	Sept 8 1987
EQUITY DIVISION	
D. J. [Signature]	
C. P. [Signature]	
D. R. [Signature]	

CASE NO. CV 87 503-937 JDC

PRELIMINARY INJUNCTION

This cause came on to be heard at the time set for the hearing on the Plaintiff's request for a preliminary injunction, a "Temporary Restraining Order" having been issued on September 8, 1987. Based upon the testimony and evidence submitted to it, the Court makes the following preliminary findings of fact:

1. Howard G. Clark, Jr. ("Mr. Clark") is 82 years old, has been married to Sydnie Clark ("Mrs. Clark") for approximately 62 years and still lives with Mrs. Clark.

2. Gradine E. Edwards ("Mrs. Edwards") is 67 years old, has been married to Leon Edwards ("Mr. Edwards") for approximately 46 years and still lives with Mr. Edwards.

3. Mr. Clark and Mrs. Edwards have had an extra marital relationship for approximately 27 1/2 years. Mrs. Clark and Mr. Edwards have been aware of the relationship between Mr. Clark and Mrs. Edwards for many years. Mr. Clark and Mrs. Edwards had two children of their own that died.

4. During the past few years, Mr. Clark has given Mrs. Edwards ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00) per month in addition to the various other gifts, trips and expenses he has paid and the various transactions he has had with her.

5. During 1984, Mr. Clark established what he called the "XYZ Trust", which in reality was only a bank account. In 1984 and 1985 Mr. Clark deposited FIFTY TWO THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$52,600.00) in the XYZ Trust. Most, if not all, of this money has been used by Mrs. Edwards or spent for her benefit.

6. Also in 1984, Mr. Clark established the Howard G. Clark, Jr. Irrevocable Trust ("Trust") and funded it with between SEVENTY

Dominick Fletcher Wood
2/21 [Signature] [Signature]

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THOUSAND AND NO/100 DOLLARS (\$70,000.00) and ONE HUDNRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) worth of securities. Mrs. Edwards was the Trustee of the Trust and also the beneficiary for her life. The Trustee has broad invasion of the corpus rights. Originally Mr. Clark was a residuary beneficiary upon Mrs. Edwards' death but this was subsequently amended and Mr. Clark relinquished all rights to the Trust assets.

7. At some point in time Mr. Clark purchased a customized motor home for approximately ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00). The motor home was depreciated until it had a book value of TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00). Mr. Clark then sold it to Mrs. Edwards in early 1985 for TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) and sometime in the Spring of 1985 Mrs. Edwards sold it for SEVENTY THOUSAND AND NO/100 DOLLARS (\$70,000.00).

8. Mr. Clark owned a lake house and some lakefront property on Guntersville Lake in Marshall County, Alabama. By deed dated March 16, 1985, Mr. Clark conveyed this property to Mrs. Edwards for TEN AND NO/100 DOLLARS (\$10.00) consideration. Mrs. Edwards sold this property in June 1985 for FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00).

9. In April 1986, Mr. Clark changed bank accounts and moved his checkbooks and other financial records from his office to Mrs. Edwards' house. From April 1986 to June 1987 a substantial amount of money was deposited into the accounts and a substantial amount of money was withdrawn therefrom. Among the amounts withdrawn was one check for TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) dated October 23, 1986 and payable to Mrs. Edwards.

10. During 1986 Mr. Clark changed his safe deposit boxes to another bank and provided that only he and Mrs. Edwards had access to them. Mr. Clark ultimately had Mrs. Edwards take most of the items out of the safe deposit boxes and keep them at her house. Many of these items were turned over to an attorney for Mrs. Clark.

11. In 1985, Mr. Clark sold 2,500 shares of First National Life Insurance Company of America ("Insurance Company") stock to each of his sons, Alan P. Clark, ("Alan Clark") and Howard G. Clark, III ("H. G. Clark, III"). This sale was part of a larger transaction involving gifts of stock from Mr. Clark to Mrs. Clark, Alan Clark and H. G. Clark, III all of which was apparently related to estate tax planning. In connection with the sale of the Insurance Company stock to Alan Clark and H. G. Clark, III, each gave Mr. Clark a promissory note in the amount of ONE HUNDRED SIXTY TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$162,500.00) payable March 5, 1990, with interest at the rate of 16% per annum payable quarterly. As security for his promissory note, H. G. Clark, III pledged 2,625 shares of the Insurance Company stock. On December 15, 1986, Mr. Clark assigned the promissory note from H. G. Clark, III to Mrs. Edwards, along with its security.

12. Mr. Clark still receives a substantial income each year. He receives ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00) from the Insurance Company and testimony indicates that his total annual income is approximately TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00). This income is subject to a substantial tax burden and Mr. Clark's 1986 income taxes have not been paid. During the time Mrs. Edwards maintained Mr. Clark's books and records, estimated tax returns and payments were not made. Mr. Clark also has numerous credit cards which have large unpaid balances.

13. There are apparently some stocks and some bearer bonds which were owned by Mr. Clark and which have not yet been located by Alan Clark, who was appointed as the limited guardian to handle Mr. Clark's financial affairs by order of the Probate Judge of Jefferson County on July 21, 1987.

14. Over the last few years, Mrs. Edwards has purchased various condominiums, houses and real estate including three condominiums in the Skyview Condominium, a house on Devon Drive in Homewood, which has now been sold, a house on Shades Crest Road which

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has now been sold, a house located at 1208 So. 50th Place, Birmingham, in which she and Mr. Edwards currently live and a house in St. Clair Springs in St. Clair County, Alabama.

15. In the last four years, at least since 1984, Mr. Clark has become more dependent upon and, at least to some extent, dominated by Mrs. Edwards.

In addition to the facts set out above, based on the testimony and evidence presented, it is the opinion of the Court that since at least 1984, Mr. Clark has increasingly become either: (i) confused to the point that he is not fully aware of what he is doing; or (ii) so easily dominated that he will do what anyone wishes him to do, even if it is exactly opposite of something he has just done; or (iii) extremely duplicitous.

The Court has advised counsel that, even if the parties do not request it, the Court will empanel a jury to hear the issues of undue influence, breach of a fiduciary duty and similar issues. It is the opinion of the Court that various assets involved in this case should be preserved in their current status or amounts until the case may be tried to the jury. The Court has further advised counsel that it could set the case for a jury trial in January, 1988 if counsel are prepared to request one at this time. If counsel are not prepared to request the trial setting at this time, the Court will still attempt to set the case within approximately three months when such request is made.

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that Defendant, Gradine E. Edwards, be, and she hereby is, restrained and enjoined from selling, conveying, encumbering or otherwise transferring without first obtaining leave of this Court any of the following described real property:

Unit 7-204 in Skyview, a Condominium as established by that certain Declaration of Skyview, a Condominium which is recorded in Real Volume 1936, Page 1, in the Probate Office of Jefferson County, Alabama.

Unit 7-304 in Skyview, a Condominium as

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Stocks

established by that certain Declaration of Skyview, a Condominium which is recorded in Real Volume 1936, Page 1, in the Probate Office of Jefferson County, Alabama.

Unit 6-103 in Skyview, a Condominium as established by that certain Declaration of Skyview, a Condominium which is recorded in real Volume 1936, Page 1, in the Probate Office of Jefferson County, Alabama.

Lot 4, Block 12, according to the survey of Crestwood Hills, Fourth Sector as recorded in Map Book 48, Page 92, in the Probate Office of Jefferson County, Alabama.

The real property located in St. Clair Springs, St. Clair County, Alabama, on Highway 23, purchased by Defendant in the month of September 1987.

Defendant, Gradine E. Edwards, is hereby further restrained and enjoined from selling, conveying or encumbering or otherwise transferring, without first obtaining leave of this Court, any stocks, bonds, securities or other property received by Defendant as Trustee of that certain trust which has been described as the Howard G. Clark, Jr. Irrevocable Trust and Gradine E. Edwards is restrained from negotiating that certain Promissory Note in the amount of ONE HUNDRED SIXTY TWO THOUSAND AND NO/100 DOLLARS (\$162,000.00) dated March 5, 1985, and which was made payable to Howard G. Clark, Jr. from Howard G. Clark, III.

Defendant, Gradine E. Edwards, is hereby further restrained and enjoined from selling, conveying, encumbering or otherwise transferring, without first obtaining leave of this Court, any tangible, personal or real property in her possession or control, which property is held jointly in the names of the Defendant and Howard G. Clark, Jr., or any real property which was obtained from Howard G. Clark, Jr.

It is further ordered that this injunction shall not issue until Plaintiff has first deposited with the Register of this Court a bond or cash security to be approved by the Register of the court in the amount of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) for the payment of such costs, damages, and reasonable attorneys' fees as may

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be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained by this order. The security used for the "Temporary Restraining Order" may be used as the security for the "Preliminary Injunction" if approved by the Register.

DONE and ORDERED this 30 day of September, 1987.


CIRCUIT JUDGE

COPIES TO:

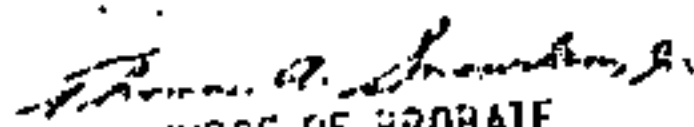
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STATE OF ALA. SHERRILL
I CERTIFY THIS
INSTRUMENT WAS FILED

88 DEC -7 AM 10:18


JUDGE OF PROBATE

RECORDING FEES

Recording Fee	\$ <u>15.00</u>
Index Fee	<u>1.00</u>
TOTAL	<u>16.00</u>