

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of: )  
 )  
The Fitness of Cache Integrity Services and )  
Thomas McDuffie as Guardian or Conservator )  
Joint Hearing, )  
 )  
 )  
 )

Case No. 3AN-23-02292PR

**ORDER FOR PRELIMINARY COURT VISITOR REPORT AND RESPONSE BY  
RESPONDENT ATTORNEYS, MR. TOM MCDUFFIE, CURRENT  
GUARDIANS/CONSERVATORS, AND THE PUBLIC GUARDIAN  
(Pending Motions to Disgorge Funds; Motion to Appoint Receiver)**

On October 25, 2023 this court started conducting review hearings on the Cache Integrity Services cases<sup>1</sup>. Over the past three months the list of cases involving CIS has grown to 122.<sup>2</sup> At this point in the process, every case has had at least one review hearing. In each of the cases the Court Visitor (CV) has given either a written or verbal report on the current needs of the ward, any problems with the work of Cache Integrity Services (CIS)<sup>3</sup>, and a recommended course of action for the benefit of the ward moving forward. Out of the 122 cases, over 60 cases have been reassigned a new conservator/guardian, the conservatorship/guardianship has been terminated, or the ward has passed away.

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<sup>1</sup> Exhibit A of Order for a Joint Hearing on the Common Question of the Fitness of Cache Integrity Services and Thomas McDuffie to Serve as Guardian or Conservator and Notice of Judicial Assignment, issued by The Honorable Superior Court Judge Thomas Matthews, Presiding Judge, Third Judicial District, dated October 24, 2023.

<sup>2</sup> The court anticipates that there may be more cases that have yet to be identified.

<sup>3</sup> CIS includes the work of Mr. Tom McDuffie, as well as other past employees of CIS.

Two problems that appear to be common for all cases is the absence of a final report/accounting<sup>4</sup>, and the management of static assets<sup>5</sup>. Thus far the monthly income of each ward appears to be directed appropriately to pay their necessary bills and provide some amount of spending money. This will not continue indefinitely, however, as Mr. McDuffie's payor/payee status terminates. Because of the large scope of cases and the complexity of attempting to untangle the finances of an individual account out of a collective accounting system, the court is uncertain how far the CV's can go to attempt to create order out of the mess. Furthermore, the technical nature of trying to track the money appears to be beyond the scope of work anticipated by AS 13.26.236 and AS 13.26.515.<sup>6</sup>

At this point in the process, the CV's should have a good sense of the reoccurring problems they are seeing in the Cache Integrity cases. They should also have an adequate basis upon which to opine on what capabilities Mr. McDuffie may have to complete the final reports and whether there are conflicts of interest that may dictate that Mr. McDuffie is not relied upon to provide a final accounting.

IT IS HEREBY ORDERED:

1. The Court Visitors shall prepare a joint preliminary written report outlining the following:
  - a. The need for final reports.
  - b. The need for final distribution of assets within Cache control.

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<sup>4</sup> AS 13.26.276 (a)(3 and 4); AS 13.26.510.

<sup>5</sup> E.g. Trust money, sale of house proceeds, inheritance, personal injury settlements.

<sup>6</sup> AS 13.26.515(d)(4) requires a financial accounting of the estate, but this is not to the level of being a forensic accounting upon which expert testimony would be provided. The level and complexity of the accounting work needed far exceeds ever expected of a Court Visitor.

- c. Competence of Tom McDuffie to complete final reports.
  - d. Any conflicts of interest of Tom McDuffie to be involved in the final reporting or distribution (i.e. potential liabilities).
  - e. Capabilities of the CV to assist with final reports.
  - f. Limitations of the CV to assist with final reports.
  - g. Recommendations on how to complete final reports.
  - h. Recommendations on a process to make final distributions.
  - i. Other needs in the cases that are common to all other cases.
  - j. Recommendations on how to address those other needs.
2. The joint preliminary CV report shall be filed with the court and distributed to all respondent attorneys, Mr. Tom McDuffie, appointed guardian/conservators<sup>7</sup> and the Public Guardian no later than January 31, 2024. The Anchorage Court System Probate Office shall assist the Court Visitors with that service. This report is NOT a public document and must be kept confidential by the Court, Court Visitors and other recipients of the report.
  3. Respondent attorneys, Mr. Tom McDuffie, appointed guardian/conservators, and the Public Guardian may file a written response to the preliminary report.<sup>8</sup> Any response must be filed with the court, served on the Court Visitors, other respondent attorneys, Mr. Tom McDuffie, appointed guardians/conservators and Public Guardian no later than February 7, 2024.
  4. A hearing to receive the CV's preliminary report will be held on **February 14, 2024, at 1:00 PM in Courtroom 204, Nesbett Courthouse.**

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<sup>7</sup> Guardians/conservators that have been appointed subsequent to the involvement of Cache Integrity Services.

<sup>8</sup> All responses should be titled as follows: (Name of Interested Party) or (Name of Agency) on Behalf of Interested Parties Written Response to Court Visitor's Joint Preliminary Report. All responses are to be filed within this case and not within any individual case.

5. The purpose of the hearing will be to allow the Court to ask questions of the Court Visitors, Respondent Attorneys, Mr. McDuffie, appointed guardians/conservators, and the Public Guardian. The questions will primarily focus on how to unravel the Cache Integrity Services accounting, the fairest and just means by which to distribute what funds are being held, and who shall bear the cost if the hiring of a person or firm with the expertise to perform the work is necessary<sup>9</sup>.
6. This hearing is not an oral argument and each interested party's opportunity to address the court is within a timely filed written response.<sup>10</sup> The court will entertain responses from the interested parties in attendance only in response to the Court's specific question(s). The court will schedule the hearing for one hour in length.
7. The hearing on February 14, 2024, will be open to the public and press. As such, individual cases and names of wards will not be discussed. The focus of this hearing is on the issues common to each ward, not the individual needs or claims that each ward may have. As such, even though the Court Visitor's preliminary report may contain mention of a specific person, no identifying information about that person shall be discussed in open court.

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<sup>9</sup> For example, AS 13.26.730 allows the Public Guardian to move to intervene in any guardian/conservator case if the estate is subject to waste. But the language in the statute is permissive and therefore such a decision is at the discretion of the Public Guardian. AS 13.26.485 provides that costs of preserving the estate may be paid from the estate.

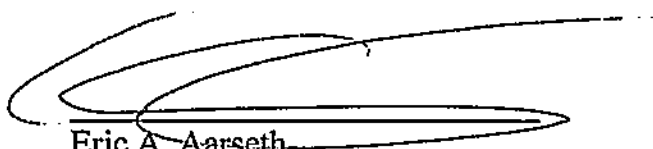
<sup>10</sup> There are simply too many interested parties for each to be given an even a few minutes to address the court with oral statements.

8. At the conclusion of the hearing, the court will take the matter of determining next steps in the Fitness Review under advisement. An order will issue reporting to the Honorable Superior Court Judge Thomas Matthews, Third Judicial District Presiding Judge with recommendations on how to proceed.
9. The Court Visitor and respondent attorney appointments will continue in the individual cases and this Fitness Review case until otherwise ordered by this court or Presiding Judge Thomas Matthews.
10. All pending motions to disgorge funds or to appoint a receiver are dismissed without prejudice. In all instances the motions to disgorge are premature as there is no final accounting upon which to determine a proper accounting for any individual. In all instances the motion(s) for appointment of a special master, receiver, or forensic accountant, are insufficiently pled as there has been no discussion of the selection process or the means by which the person appointed (i.e. hired) would be paid.

Dated at Anchorage, Alaska this 18<sup>th</sup> day of January, 2024.

\* CERTIFY THAT ON 1/18/24  
COPIES OF THIS FORM WERE SENT

TO: CIS, CVs, Denali Law Group,  
E. Goodman, L. Jones, OPA/AJK,  
OPA/PG, OPA/BKN, OPA/RDS,  
S. Simpson, A. Porter, AG/PR,  
S. Sterling CNS

  
Eric A. Aarseth  
Superior Court  
Senior Judge