

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE

**FILED**

FEB 28 2011

By RICHARD B. BROOKER, Clerk  
Deputy

IN RE: CONSERVATORSHIP OF JOHN )  
DANIEL TATE, )  
RESPONDENT-APPELLANT )  
v. )  
DAVID E. TATE, )  
PETITIONER-APPELLEE )

Case No. 07P-1654

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**RESPONSE IN OPPOSITION TO TEMPORARY CONSERVATOR'S  
FINAL MOTION FOR ATTORNEY'S FEES AND EXPENSES  
AND  
NOTICE OF PERJURY AND REFERRAL FOR  
PROSECUTION AND DISCIPLINARY ACTION**

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Respondent-Appellant, John D. Tate ("Respondent"), by and through counsel, hereby responds in opposition to the former Temporary Conservator's Final Motion for Award of Attorney's Fees and Expenses (the "Motion"). First, the Motion should be denied because Petitioner has committed perjury during this proceeding, and his perjured testimony was made with the knowledge and assistance of his counsel, Mr. Paul T. Housch, Esq.<sup>1</sup>

It is here alleged, that Petitioner, one David E. Tate, on March 10, 2010, during his sworn deposition taken in Davidson County, Tennessee, and/or on April 27, 2010, by signing his Witness Certification and Errata Sheets, effectively changing his prior deposition testimony, and with said signing having taken place under oath and before a notary while in Shelby County, Tennessee, and while in both instances before this court, did unlawfully and knowingly make material false statements under oath, with intent to deceive, in connection with an official

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<sup>1</sup> Pursuant to Tenn. Sup. Ct. R. 8, RPC 8.3(a), Mr. Housch's professional misconduct is hereby reported to the Board of Professional Responsibility for initiation of a disciplinary investigation.

proceeding to wit: the Conservatorship action of John Daniel Tate, in the Seventh Circuit Court (Probate Division) of Davidson County, Tennessee, Case No. 07P-1654, in violation of Tenn. Code Ann. §§ 39-16-702 and 39-16-703, against the peace and dignity of the State of Tennessee. It is further alleged that Petitioner's perjury was known to his counsel, Mr. Paul T. Housch, Esq., who did knowingly induce and/or facilitate Petitioner's perjury in changing his March 10, 2010 deposition testimony to conform to the defective and misleading Order Appointing Temporary Conservator, entered October 23, 2007.

Secondly, the Motion should be denied because movant's counsel, Mr. Paul T. Housch, made material misrepresentations to the court during the *ex parte* October 23, 2007 hearing, which substantially prejudiced Respondent's defense in this proceeding. It is here alleged and reported that Mr. Housch's false statements to the court at the *ex parte* October 23, 2007 hearing were in violation of Tenn. Sup. Ct. R. 8, RPC 3.3(a)(1) and (3).

Thirdly, the Motion should be denied because this court lacks subject matter jurisdiction to hear and rule on the Motion as a Notice of Appeal has been filed several months ago, and whether or not petitioner's attorney's fees are properly chargeable to Respondent is at issue on appeal.

Fourth, it is manifestly unfair to charge any of Petitioner's attorney's fees to Respondent, and in violation of the conservatorship statute, because Respondent is the "prevailing party" in this matter as the Respondent defeated the Petition at the final hearing. Finally, Respondent denies that the attorney of his adversary has benefited him in anyway. Since the court ruled that temporary conservatorship terminated on May 24, 2010, none of the fees requested were necessary, proper or appropriate.

For any or all of the reasons stated, as more fully argued herein, the Motion should be denied.

**I. RELEVANT FACTS AND PROCEDURAL HISTORY.**

On October 23, 2007, this court convened an *ex parte* hearing and entered an Order Appointing Temporary Conservator (“Ex Parte Order”) which directed the immediate issuance of Temporary Letters of Conservatorship over the person and property of Respondent. The Ex Parte Order, attached hereto as **Exhibit A**, provides, in part, that it was entered based upon “the testimony of petitioner in open court.” Since the *ex parte* October 23, 2007 hearing was not contemporaneously transcribed by a court reporter, and the court included no specific factual findings in its Ex Parte Order, it was rendered impossible for those not there in attendance to later reconstitute and assess the substance and nature of the testimonial “evidence” considered by the court which, in its judgment, warranted the immediate transfer of Respondent’s individual and civil rights prior to him having been served with process or otherwise notified of the proceeding. Without a transcript of the *ex parte* October 23, 2007 hearing, Respondent and his counsel labored, for approximately three (3) years, under the false impression that Petitioner had in fact been called as a witness and testified at the October 23, 2007 hearing. Even more, that the court had found Petitioner’s testimony competent and credible and relied upon Petitioner’s testimony in entering the Ex Parte Order.

In an effort to finally learn the substance and nature of Petitioner’s testimony at the *ex parte* October 23, 2007 hearing, on March 3, 2010, undersigned counsel noticed Petitioner’s deposition to be conducted on March 10, 2010. (Affidavit of Michael G. Hoskins In Support of Emergency Petition for Writ of Mandamus, ¶¶ 9-11, attached as **Exhibit B**; Notice of Deposition of David E Tate, attached as **Exhibit C**). During Petitioner’s March 10, 2010 deposition, in

response to questioning on his reported testimony at the October 23, 2007 hearing,<sup>2</sup> the Petitioner was asked and answered as follows:

Q: Did you testify October 23, 2007?

A: **I don't even remember that.**

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Q: You're telling me you don't remember whether or not you were sworn under oath and testified at a hearing?

A: **I remember sitting at a table and – okay. I'm thinking in terms of being called up, you know how you're put on the witness stand.**

Q: I'm asking you if you raised your right hand and promised to tell the truth, the whole truth, and nothing but the truth, so help you God.

A: **If you want an honest answer, I really don't remember. I remember talking to the Judge over a microphone.**

Q: I only want an honest answer. I'm sorry I interrupted you.

A: **I don't remember.**

Q: You don't remember?

A: **I truly don't remember.**

Q: But you remember everything that Danny told you before then?

A: **Not every single thing.**

Q: How is it – how is it, sir, that you can remember his words specifically, but you can't remember what you said subsequently?

A: **Those were important to me. And whether or not I was sworn in was not.**

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Q: And who did all that talking for 20 or 30 minutes?

A: **Maybe not even that long. It was – most of the conversation was between Mr. Housch and Judge Kennedy. And Judge Kennedy asked me a few things.**

Q: What did he ask you?

A: **I don't remember.**

Q: How is it you can't remember what Judge Kennedy says, but you can remember everything Mr. Tate says?

A: **Do we have a transcript? I don't remember everything he said. I remember things that stuck with me.**

Q: I wish we had a transcript. Do you know anything about a transcript? Because I wasn't there.

A: **I do not.**

Q: My client wasn't there either, was he?

A: **No.**

Q: So how could we have a transcript?

A: **I don't have a transcript. I don't think there was one.**

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<sup>2</sup> Recall, that the Ex Parte Order grants Petitioner the right to enter onto Respondent's property and seize all of his assets based, in part, upon the "testimony of Petitioner in open court." (Ex Parte Order, p. 1, attached hereto as Exh. A).

(Deposition of David E. Tate, March 10, 2010 Transcript (“David E. Tate Depo.”), 162:8-9, 162:25-163:24, 165:11-166:6, cited pages of the condensed deposition transcript are attached hereto as Exhibit D).<sup>3</sup>

As provided for in Tenn. R. Civ. P. 30.05, Petitioner elected to have his fully transcribed deposition submitted to him for reading, examination, correction and signing. On April 29, 2010, through his counsel, Mr. Paul T. Housch, Petitioner submitted three (3) Errata Sheets (“Errata Sheets”) of changes to his March 10, 2010 deposition testimony, including a signed and notarized Witness Certification, stating, “I David Eugene Tate, do hereby certify that I have read the foregoing deposition given by me on March 10, 2010, and that the transcript thereof is true and correct, with the following corrections, if any:”. (See, April 29, 2010 Facsimile of Paul T. Housch to Michael G. Hoskins, attaching Mr. Housch’s April 29, 2010 Letter to Martha Denton (Court Reporter), including aforementioned Errata Sheets, attached hereto as Exhibit E). After receiving Petitioner’s Original Deposition Transcript and Original Errata Sheets, undersigned counsel filed them with the Probate Court Clerk on June 25, 2010. (Notice of Filing Deposition of David E. Tate Transcript, (Part I), taken March 10, 2010 (“David E. Tate Depo.”) and Notice of Filing Original Errata Sheets to Deposition of David E. Tate Transcript (Part I), taken March 10, 2010 (“Errata Sheets”) attached hereto, respectively, as Exhibit F and Exhibit G).

In his Errata Sheets, (see Exh. G) Petitioner changed his March 10, 2010 deposition testimony regarding his purported October 23, 2007 testimony as follows:<sup>4</sup>

Q: Did you testify October 23, 2007?

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<sup>3</sup> David E. Tate’s Original March 10, 2010 Deposition Transcript was filed of record with the Probate Court Clerk on June 25, 2010.

<sup>4</sup> All bolded text represents Petitioner’s testimony. Specifically, the bolded light gray text which is struck through, for example, “~~I truly don’t remember~~” represents Petitioner’s original responses to questions during his March 10, 2010 deposition which he elected to change after reading and examination of his deposition transcript. The black bolded text in brackets, for example, “[Yes]” represents Petitioner’s corrections or changes to his testimony after review and examination of his March 10, 2010 deposition transcript.

A: ~~I don't even remember that.~~ [Yes].

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Q: You're telling me you don't remember whether or not you were sworn under oath and testified at a hearing?

A: **I remember sitting at a table and – okay. I'm thinking in terms of being called up, you know how you're put on the witness stand.**

Q: I'm asking you if you raised your right hand and promised to tell the truth, the whole truth, and nothing but the truth, so help you God.

A: ~~If you want an honest answer, I really don't remember. I remember talking to the Judge over the microphone.~~ [Yes].

Q: I only want an honest answer. I'm sorry I interrupted you.

A: ~~I don't remember.~~ [Yes].

Q: You don't remember?

A: ~~I truly don't remember.~~ [Strike Answer].

Q: But you remember everything that Danny told you before then?

A: **Not every single thing.**

Q: How is it – how is it, sir, that you can remember his words specifically, but you can't remember what you said subsequently?

A: **Those were important to me. And whether or not I was sworn in was not.**

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Q: And who did all that talking for 20 or 30 minutes?

A: **Maybe not even that long. It was – most of the conversation was between Mr. Housch and Judge Kennedy. And Judge Kennedy asked me a few things.**

Q: What did he ask you?

A: ~~I don't remember.~~ [If I love my brother and if this was hard on me].

Q: How is it you can't remember what Judge Kennedy says, but you can remember everything Mr. Tate says?

A: **Do we have a transcript? I don't remember everything he said. I remember things that stuck with me.**

Q: I wish we had a transcript. Do you know anything about a transcript? Because I wasn't there.

A: **I do not.**

Q: My client wasn't there either, was he?

A: **No.**

Q: So how could we have a transcript?

A: **I don't have a transcript. I don't think there was one.**

(Notice of Filing Original Errata Sheets of David E. Tate Transcript (Part I), taken March 10, 2010, Errata Sheets, attached as Exhibit G, *supra*).

The above corrections which Petitioner made to his March 10, 2010 deposition testimony, via Errata Sheets, changed his testimony in the following ways:

- (a) Petitioner went from having no recollection (on March 10, 2010) as to whether he had even testified at the *ex parte* October 23, 2007 hearing, to (on April 27, 2010) affirmatively recalling that “yes,” he had in fact testified at the hearing. (David E. Tate Depo., 162:8-9, Exh. D; Errata Sheets, p. 2 of 3,<sup>5</sup> ll. 18, Exh. G).
- (b) Petitioner went from having no recollection (on March 10, 2010) as to whether he was administered a testimonial oath at the *ex parte* October 23, 2007 hearing, to (on April 27, 2010) affirmatively and repeatedly recalling that “yes,” he had in fact raised his right hand and promised to tell the truth, the whole truth, and nothing but the truth so help you God. (David E. Tate Depo., 163:6-16, Exh. D; Errata Sheets, p. 2 of 3, ll. 18-19, Exh. G).
- (c) Petitioner went from having no recollection (on March 10, 2010) as to the “few things” that Judge Kennedy asked him at the *ex parte* October 23, 2007 hearing, to (on April 27, 2010) affirmatively recalling that Judge Kennedy had asked him whether he loved his brother and whether this was hard on him. (David E. Tate Depo., 165:16-17, Exh. D; Errata Sheets, p. 3 of 3, ll. 9, Exh. G).

After additional efforts to discover the substance and extent of Petitioner’s *ex parte* October 23, 2007 testimony, on October 19, 2010, Respondent and undersigned counsel were finally provided a copy of the courtroom audio/video recording of the *ex parte* October 23, 2007 hearing where Petitioner purportedly testified. (Affidavit of Michael G. Hoskins In Support of Emergency Petition for Writ of Mandamus, ¶¶ 3-15, attached at Exhibit B). The transcript of the courtroom audio/video recording of the *ex parte* October 23, 2007 hearing, filed of record by Mr. Paul T. Housch, Esq. on February 15, 2011, reveals that during the *ex parte* October 23, 2007

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<sup>5</sup> Petitioner’s three (3) Errata Sheets are included in attached Exh. G, however, all three pages are numbered page “253.” To avoid confusion, the Errata Sheets specify the page and line of the deposition testimony being changed.

hearing, Petitioner was never called as a witness, never took the witness stand, was never administered any testimonial oath, was never questioned under oath, and consequently, never testified. (Notice of Filing Original Transcript, Transcript of the Videotaped Proceedings Before Honorable Randy Kennedy, October 23, 2007, (“Ex Parte Hearing Transcript”) attached hereto as **Exhibit H**).

The audio/video recording and Ex Parte Hearing Transcript further reveals Judge Kennedy signed the Ex Parte Order, in his own words, “without hesitation” and in no way based on the testimony of Petitioner. (Ex Parte Hearing Transcript, p. 5, ll. 2-10). The audio/video recording and Ex Parte Hearing Transcript further reveals that Judge Kennedy never asked Petitioner “whether he loved his brother and whether this was hard on him.” (Ex Parte Hearing Transcript, p. 3-19). Petitioner and his counsel knew that at the *ex parte* October 23, 2007 hearing, Petitioner was never called as a witness, never took the witness stand, was never administered the prerequisite testimonial oath in order to testify,<sup>6</sup> and that the court’s appointment of a Temporary Conservator was in no way based upon his “testimony in open court” as stated in the misleading Ex Parte Order. Petitioner and Mr. Housch knew these things because they were physically present there in court, however, still Mr. Housch assisted and allowed Petitioner to submit perjured testimony via his Errata Sheets, presumably in an effort to conform Petitioner’s testimony to the misleading and defective Ex Parte Order.

Moreover, the Ex Parte Hearing Transcript reveals that the Ex Parte Order was entered upon no evidence whatsoever and upon Mr. Housch’s knowingly false statement to the court that “Mr. John Tate [Respondent] is using approximately \$36,000 a month for his habit of crack cocaine.” (Ex Parte Hearing Transcript, p. 4, ll. 14-17). Through his client, Mr. Housch had

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<sup>6</sup> “Before testifying, every witness shall be required to declare that the witness will testify truthfully by oath or affirmation, administered in a form calculated to awaken the witness's conscience and impress the witness's mind with the duty to do so.” Tenn. R. Evid. Rule 603.

access to Respondent's banking and financial records when he made that representation to the court. (David E. Tate Depo. Part I, Exh. 1, Answer to Interrogatory No. 6, p. 2). Mr. Housch's statement to the court regarding the extent of Respondent's alleged drug use was knowingly false when it was made or was made with reckless regard of its truth. (See Memorandum of Law in Support of Motion for Relief, pp. 9-15, and exhibits cited therein, attached hereto as Exhibit I).

## II. LAW AND ARGUMENT.

### A. THE TEMPORARY CONSERVATOR'S MOTION FOR FINAL AWARD OF ATTORNEY'S FEES SHOULD BE DENIED BECAUSE HE HAS COMMITTED PERJURY DURING THIS PROCEEDING AND HIS COUNSEL HAS AIDED AND SUBORNED HIS PERJURY.

In Tennessee, perjury is defined as the making of "a false statement, under oath" with the intent to deceive. Tenn. Code Ann. § 39-16-702(a)(1) (1997). The offense of aggravated perjury is committed by a person who makes a false statement, under oath, during or in connection with an official proceeding, and the false statement is material. See Tenn. Code Ann. §§ 39-16-702, -703.<sup>7</sup> Petitioner, David E. Tate, committed perjury and/or aggravated perjury when he signed the April 27, 2010 Witness Certification and Errata Sheets, changing his deposition testimony. As is indisputably evidenced by the courtroom audio/video recording and the Ex Parte Hearing Transcript, Petitioner knowingly offered false testimony under oath when he:

- (1) unequivocally affirmed that he had in fact testified at the *ex parte* October 23, 2007 hearing (when he had not);

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<sup>7</sup> Tennessee Code Annotated section 39-16-701 provides that:

- (1) "Material" means the statement, irrespective of its admissibility under the rules of evidence, could have affected the course or outcome of the official proceeding;
- (2) "Oath" means a solemn and formal undertaking to tell the truth and includes an equivalent affirmation permitted by law as a substitute for an oath administered by a person authorized by law to take statements under oath;
- (3) "Official proceeding" means any type of administrative, executive, judicial, or legislative proceeding that is conducted before a public servant authorized by law to take statements under oath in that proceeding; and
- (4) "Statement" means any representation of fact.

- (2) unequivocally affirmed that he had in fact taken the testimonial oath at the *ex parte* October 23, 2007 hearing, and raised his right hand and promised to tell the truth, the whole truth, and nothing but the truth so help you God (when he had not); and
- (3) fabricated questions by Judge Kennedy which were never asked of him at the October 23, 2007 hearing.

Attorney Paul Housch suborned Petitioner's perjury when he reviewed Petitioner's perjured April 27, 2010 Witness Certification and Errata Sheets and decided to submit the perjured testimony to the court reporter and undersigned counsel on April 29, 2010, as truthful testimony. As Petitioner's counsel and having first-hand knowledge that the Errata Sheet corrections were false, Mr. Housch was duty bound to refuse to submit the perjured testimony and/or withdraw from the representation. *See* Tenn. Sup. Ct. R. 8, RPC 1.2(d) and 3.3(f).<sup>8</sup>

**B. PETITIONER'S PERJURY AND FRAUD ON THE COURT AND HIS COUNSEL'S PROFESSIONAL MISCONDUCT SUBSTANTIALLY PREJUDICED RESPONDENT'S RIGHTS AND DEFENSES DURING THESE PROCEEDINGS.**

When Attorney Housch attended the *ex parte* October 23, 2007 hearing, he had a duty to disclose to the court all material facts which would enable the court to make an informed decision. *See* Tenn. Sup. Ct. R. 8, RPC 3.3(a)(3). Instead, the Ex Parte Hearing Transcript reveals that in addition to making false representations to the court, Mr. Housch failed to inform the court of many material facts which were adverse to his client's position. For a listing of material facts which were known or should have been known to Mr. Housch prior to the *ex parte* October 23, 2007, hearing, and therefore, should have been presented to the court in assessing whether to transfer away Respondent's constitutional rights before service of process had been

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<sup>8</sup> Tenn. Sup. Ct. R. 8, RPC 1.2(d), provides: A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows or reasonably should know is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

perfected, please see the Memorandum of Law in Support of Motion for Relief from Judgment, pp. 2-19, incorporated herein by reference.

Specifically, Mr. Housch failed to inform the court that:

- (1) No summons in the matter had yet been issued or served upon Respondent to notify him of the *ex parte* hearing;
- (2) Respondent was fully capable of communicating his own wishes;
- (3) Respondent possessed a valid Tennessee driver's license, and was capable of transporting himself in his own vehicles wherever he might need to go;
- (4) Respondent had not recently been arrested or charged with any crime involving the use of drugs;
- (5) Respondent had not recently been admitted to any hospital or emergency rooms for detoxification or any reason;
- (6) Respondent had not threatened harm to himself or anyone else;
- (7) Petitioner had not met with or seen Respondent for several months;
- (8) All of Respondent's mail was currently being hijacked by Petitioner;
- (9) Petitioner had already been granted a power-of-attorney over Respondent which was given to him in trust to pay Respondent's bills while Respondent attended an international drug abuse and treatment center;
- (10) Respondent had orally rescinded and revoked the power-of-attorney but Petitioner ignored his requests and acted in excess of Respondent's wishes;
- (11) Respondent was living unassisted in his own home and they could have notified him of the proceeding and given him an opportunity to attend but Petitioner and his counsel simply chose not to do so;

- (12) Petitioner only filed the conservatorship petition to gain full control over Respondent's assets;
- (13) Using the previously granted power-of attorney, Petitioner was attempting to completely cut off Respondent's access to his own resources, and transferring them into an undisclosed bank account;
- (14) Petitioner was spending Respondent's money without his approval and against his will, including paying Mr. Housch a \$25,000.00 retainer fee with respondent's funds;
- (15) All of Respondent's bills and financial obligations were current.

(See Exh. I, Memo. of Law in Supp. of Motion for Relief, pp. 2-19, and citations to the record therein).

Clearly, the court was only presented with one side of the facts on October 23, 2007, when it entered the Ex Parte Order appointing Petitioner Temporary Conservator over the person and property of Respondent and entered the defective Ex Parte Order which, until October 19, 2010, led Respondent and his counsel to believe that an evidentiary hearing had in fact been held and that the court had received and considered testimonial evidence, when in fact no such evidentiary hearing had occurred.

### **C. THE MOTION MUST BE DENIED FOR LACK OF JURISDICTION.**

This court lacks jurisdiction to hear and decide the Motion. In appeals as of right from a final judgment, the trial court loses jurisdiction of the case upon the filing of the notice of appeal. Born Again Church v. Myler Church Building Systems, 266 S.W.3d 421, 425 (Tenn. Ct. App. 2007); *see also*, Parks v. McGuire, 270 S.W.2d 347, 348 (Tenn. 1954). Any additional matter that needs to be addressed in the trial court must be addressed once the trial court reacquires

jurisdiction. Born Again Church, 266 S.W.3d at 425.<sup>9</sup> Here, the Notice of Appeal was filed on September 7, 2010. This court has long since lost jurisdiction over this matter which is now vested with the appellate court. Were this court to ignore its jurisdictional limitations and consider the Motion anyway, such a ruling would be “void and a nullity.” See Roberts v. Lowe, 1997 WL 189345 (Tenn. Ct. App. Apr. 16, 1997) (holding that when a notice of appeal has been filed, the trial court is deprived of jurisdiction and any order it enters thereafter is of no effect). Therefore, the Motion should be denied.

**D. THE MOTION SHOULD BE DENIED BECAUSE MR. HOUSCH’S ACTIONS HAVE ONLY SERVED TO INJURE AND BANKRUPT RESPONDENT.**

Respondent denies that any of Mr. Housch’s services have ever benefited him and requests that the Motion be denied in its entirety. It is absurd that Petitioner’s counsel is requesting fees through February 2011 when the temporary and wrongful conservatorship was terminated back on May 24, 2010. Respondent has opposed this invasive and intrusive conservatorship from the beginning, and submits that he is the “prevailing party” having successfully defended against this conservatorship action at the final hearing. As such, the fees of petitioner’s counsel should be paid by his client, the petitioner. Furthermore, Respondent submits that none of the fees requested in the Motion were necessary or proper and should not be charged against him.

**E. CONCLUSION.**

The Motion should be dismissed for lack of jurisdiction, fraud on the court, perjury, and because the services rendered did not benefit Respondent.

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<sup>9</sup> An exception is made for Rule 54.02(2) motions for discretionary costs, not applicable here. A “prevailing party” may request discretionary costs, such as “reasonable and necessary court reporter expenses for depositions or trials, [and] reasonable and necessary expert witness fees for depositions (or stipulated reports) and for trials.” Tenn. R. Civ. P. 54.02(2). The purpose of awarding discretionary costs is to help “make the prevailing party whole,” not to punish the losing party. Owens v. Owens, 241 S.W.3d 478, 496-497 (Tenn. Ct. App. 2007).

Respectfully submitted,



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*Attorney for Respondent-Appellant,  
John Daniel Tate*

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2011, a true copy of the foregoing Response in Opposition to Temporary Conservator's Final Motion for Award of Attorney's Fees and Expenses and Notice of Perjury and Referral for Prosecution and Disciplinary Action has been served *via* U.S. mail, postage prepaid, to the following:

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