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21 Co-Conservator of the Estate

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **FOR THE COUNTY OF LOS ANGELES**

24 In re the Conservatorship of the Person and
25 Estate of

26 **BRITNEY JEAN SPEARS,**
27
28 Conservatee.

Case No. BP 108 870

**EX PARTE PETITION FOR ORDER
MODIFYING INVESTMENT STRATEGY**

[Probate Code §§ 2403, 2570, 2328]

Date: March 29, 2013
Time: 8:30 a.m.
Dept. 9 / Room 238

Assigned to Hon. Reva Goetz

CIT/CASE: BP108870
LEA/DEF#:
RECEIPT #: FINE02922029
DATE PAID: 03/28/13 02:33 PM
PAYMENT: \$435.00
RECEIVED: 310
CHECK: \$435.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00

1 Andrew M. Wallet ("Mr. Wallet"), as Co-Conservator of the Estate of Britney
2 Jean Spears, and James P. Spears, ("Mr. Spears"), as Conservator of the Person and
3 Co-Conservator of the Estate of Britney Jean Spears (collectively, the "Conservators")
4 respectfully bring this verified *Ex Parte* Petition for Order Modifying Investment Strategy
5 (Probate Code §§ 2403, 2570) (the "Petition"), as follows:

6 **PURPOSE**

7 1. The purpose of this Petition is to obtain an order of this Court authorizing the
8 Conservators to modify their investment powers by altering the allocation strategy for the
9 Conservatee's liquid assets due to changing market conditions. The Conservators' investment
10 advisors, appointed by this Court's Orders of September 8, 2010, September 30, 2010, October 6,
11 2010, November 18, 2010, and February 10, 2011, have reached a consensus of opinion on the
12 proposed investment strategy, and have recommended an approach giving the Conservators
13 additional flexibility to respond to fluid national and global economies, as set forth below.

14 2. Currently, except for the bond portfolio (which assets are held directly in the name
15 of the conservatorship), the Conservators, on the advice of the investment advisors, hold the
16 Conservatorship assets predominantly in mutual funds and exchange traded funds ("ETF's"),
17 which each holds many assets, in order to provide the Conservatorship investment portfolio with
18 a broader and more conservative investment portfolio.¹ The Conservators will continue to invest
19 the Conservatorship investment portfolio in mutual funds and ETF's for the foreseeable future
20 excepting only those funds invested in bonds. The Conservators require that all mutual funds
21 and ETF's in which they invest are fully liquid and are traded daily. No illiquid mutual funds or
22 ETF's are permitted in the investment portfolio.

23 3. To date, despite the challenging investment climate, the Conservators have
24 increased the value of the Conservatee's holdings. In order to continue to increase the value of

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27 ¹As a minor portion of the portfolio, the Conservators also hold separately managed
28 accounts which are in-house strategies of the investment advisors, who manage and trade
individual stocks directly.

1 the Conservatee's holdings, recent events require that the Conservators significantly adjust their
2 investment strategy so that they may safeguard and continue to grow the investment portfolio.
3 The stock market has risen substantially since the beginning of the year, and the bond market – as
4 a result of a myriad of factors – is now flat to negative. Attached as Exhibit A to this Petition is a
5 true and correct copy of a recent article entitled "Portfolio Management: The New 60/40" by Art
6 Steinmetz, Chief Investment Officer of Oppenheimer Funds, which explicates the economic
7 shifts requiring the change in the asset allocations for the Conservatee's investment portfolio.
8 The Court previously authorized the Conservators to delegate their investment powers to both
9 professional investment advisors at Merrill Lynch and Morgan Stanley Smith Barney. The
10 Trustee of the SJB Revocable Trust (the "SJB Trust") has also employed the investment advisors
11 at Morgan Stanley Smith Barney. The combined assets of the Conservatorship and the
12 SJB Trust are managed in equal shares by the two sets of investment advisors, who have
13 responsibility for selecting, investing in and monitoring the particular investment vehicles for the
14 Conservatorship and assets of the SJB Trust, as well as the strategies utilized in the investment of
15 the assets of the Conservatorship and the SJB Trust, all in accordance with the prudent investor
16 rule. The Conservators (Mr. Wallet and Mr. Spears through his counsel) continue to have
17 substantive monthly telephone calls with each set of investment advisors which include analyses
18 of market conditions and portfolio performance, as well as quarterly and semi-annual calls with
19 Ivan Taback, the Trustee of the SJB Trust, and both sets of investment advisors for in-depth
20 investment evaluation and planning.

21 4. As the majority of the Conservatee's assets have been held in bonds, the
22 Conservators have worked closely with both sets of investment advisors have reached a
23 consensus to reconfigure their investment strategy to better protect both the actual dollars and the
24 buying power of the Conservatee's investment portfolio.

25 5. The Conservators seek the Court's order approving a shift in the investment
26 strategy to provide the flexibility required in this economic environment. The Conservators
27 continue to invest the great majority of the portfolio in fixed income investments (bonds, and
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1 other funds of highly stable preferred securities that produce significant dividends) and equities.
2 Along with bonds and equities, which will continue to comprise the bulk of the portfolio, they
3 seek the Court's authority to make the category of "alternative" investments a more significant
4 component of the investment portfolio than the current allocations. These alternative
5 investments are all held in mutual fund vehicles managed by fund managers who have been and
6 are continually being vetted by our investment advisors. The assets in the alternative investment
7 class include real assets, managed futures, hedge funds, and REITS (the REITS have previously
8 comprised approximately 1% of the portfolio).² The REIT mutual funds characteristically hold
9 hundreds of real estate interests and provide another class of assets that does not track the ups
10 and downs of the stock market and has historically been less volatile than the stock market as
11 well. The various classes of "alternative" investments are well described in the article "What
12 Are Alternative Investments?" by Merrill Lynch Wealth Management, a true copy of which is
13 attached as Exhibit B. The alternative investments that the Conservators propose including in the
14 candidates for the investment portfolio include the following:

- 15 a. Hedge Funds: hedge fund managers define "risk" in terms of potential
16 loss of invested capital ("total risk") rather than the traditional definition
17 of "risk" used in the stock market as deviation from a stated benchmark,
18 e.g., the Dow Jones Industrial Average. Hedge funds have proven better
19 able to sustain investor capital during the downturns, and to generate
20 positive returns regardless of market risks. *Id.*, at page 5.
- 21 b. Managed Futures: funds that trade futures and forward contracts on
22 commodities as well as financial assets (including currencies, interest
23 rates, and bond and stock indexes). *Id.* at page 6.
- 24 d. Real assets: funds that include real assets, including commodities,
25 infrastructure, plant and equipment, real estate, and human capital, as well
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27 ²"Alternative" investments may also include private equities, although neither the
28 conservatorship nor the SJB Trust portfolios will contain any private equities.

1 as securities that represent ownership in physical commodities, such as oil,
2 agriculture products, or gold. *Id.* at 10.

3 7. Because of the shifts in the investment environment, with a growing impact of
4 the global economy and numerous other economic factors, the Conservators' investment advisors
5 believe that having increased flexibility that provides them with the ability to promptly respond
6 to fluid market conditions, which is essential to the continuing stability and growth of the
7 Conservatee's investment portfolio. They therefore have jointly recommended the following
8 investment allocation bands:

9 a. For the Conservatorship: Fixed income: 50 to 90%; Equities: 5 to 35%;
10 Alternatives (including without limitation REITS): 0 to 20%.

11 b. For the SJB Trust: Fixed income: 40 to 70%; Equities: 15 to 40%;
12 Alternatives (including without limitation REITS): 0 to 30%. (A petition
13 with regard to the investment of the SJB Trust will be filed in short order.)

14 8. Ivan Taback, the Trustee of the SJB Trust, has communicated his agreement that
15 investing the Conservatorship assets and the SJB Trust assets as a unified whole, as set forth
16 above, with ML and MSSB coordinating investment strategy, is appropriate and in the best
17 interests of Ms. Spears.

18 PROCEDURAL BACKGROUND

19 2. **Appointment of Temporary Conservators.** On February 1, 2008, Mr.
20 Spears was appointed Temporary Conservator of the Person of Britney Jean Spears ("Ms.
21 Spears" or "Conservatee"). On that same date, the Court also appointed Mr. Spears and Mr.
22 Wallet Temporary Co-Conservators of Britney's Estate. Letters of Temporary Conservatorship
23 were issued the same day and were extended several times.

24 3. **Appointment of Permanent Conservator of the Person and**
25 **Co-Conservators of the Estate.** On October 28, 2008, the Court appointed Mr. Spears the
26 Permanent Conservator of the Person of Conservatee. Permanent Letters of Conservatorship of
27 the Person were issued on January 9, 2009. On that same date, the Court also appointed
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1 Mr. Spears and Mr. Wallet as Permanent Co-Conservators of the Estate of Conservatee.

2 Permanent Letters of Conservatorship were issued on January 9, 2009.

3 4. **Appointment of PVP Counsel.** On February 1, 2008, the Court
4 appointed Samuel D. Ingham, III ("Mr. Ingham") as the PVP attorney for the Conservatee. Mr.
5 Ingham continues to serve as such.

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8 **PREVIOUS INVESTMENT ORDERS**

9 8. This Court made orders previously with regard to the investment petitions in the
10 Conservatorship matter on September 8, 2010, October 6, 2010, November 18, 2010, and
11 February 10, 2011, and in the matter of the SJB Trust on September 30, 2010.

12 9. The Conservators request that in all respects other than the allocations for the
13 investment portfolio, the previous Orders remain fully in force and effect.

14 **GOOD CAUSE EXISTS FOR HEARING THIS PETITION ON AN *EX PARTE* BASIS**

15 5. Regarding a petition re investments: Probate Code section 2403(b) provides that
16 notice of hearing on a petition brought under that section must be given in the manner provided
17 in Probate Code section 1460 *et seq.*

18 6. Regarding a petition for instructions: Probate Code section 2570(c) similarly
19 provides that notice of hearing on a petition brought under that section must be given in the
20 manner provided in Probate Code section 1460 *et seq.*, but states that the court "may order that
21 the notice be dispensed with."

22 7. Regarding notice of this Petition: Probate Code section 1460(a) provides that
23 notice of the time and place of the hearing must be given at least 15 days before the date of the
24 hearing. However, Section 1460(e) contains an exception to the 15-day notice requirement and
25 allows the Court, for good cause, to dispense with the required notice. *See also* Prob. Code
26 § 1203(a).

8. Good cause exists to dispense with the notice requirements set forth in Probate Code section 1460(a) and hear this Petition as to the remaining issues on an *ex parte* basis because, until this Petition is granted, the sizeable assets of the Conservatorship and the SJB Trust cannot be invested optimally, especially due to the rapidly changing market conditions and the underperformance of the bond portfolios. All interested parties agree that having this Petition heard and decided on an *ex parte* basis is appropriate.

NOTICE

9. **Notice.** Notice of the time, date and location of the *ex parte* hearing on this Petition has been given to all persons entitled to notice under California law, as set forth in the Declaration of Geraldine A. Wyle re Notice and Urgency filed concurrently with this *Ex Parte* Petition.

10. **Special Notice.** No request for special notice has been made in this matter.

WHEREFORE, the Conservators pray for an Order of this Court:

1. Authorizing the Co-Conservators and Morgan Stanley Smith Barney and Merrill Lynch, acting on behalf of the Co-Conservators of the Estate of Britney Jean Spears, to invest the assets of the Conservatorship and the assets of the SJB Trust in separate accounts, but as a unified whole consistent with the investment allocation ranges for the Conservatorship as follows: Fixed income: 50 to 90%; Equities: 5 to 35%; Alternatives (including without limitation REITS): 0 to 20%.

2.. That this Order continue until such further order of the Court; and

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3. For such other orders as this Court deems proper.

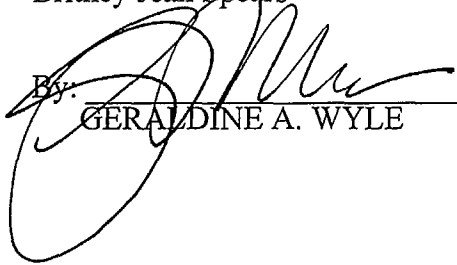
Dated: March 28, 2013

Respectfully submitted,

HOFFMAN, SABBAN & WATENMAKER
A Professional Corporation
Attorneys for James P. Spears, Conservator of the
Person and Co-Conservator of the Estate of Britney
Jean Spears

HINOJOSA & WALLET, LLP

Andrew M. Wallet, Co-Conservator of the Estate of
Britney Jean Spears

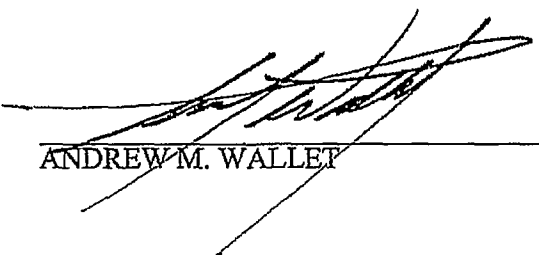
By: 
GERALDINE A. WYLE

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VERIFICATION

I, ANDREW M. WALLET, a party in the above-entitled matter, declare that I have read the foregoing *EX PARTE* PETITION FOR ORDER MODIFYING INVESTMENT STRATEGY and know its contents. It is true of my knowledge, except to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document is executed on March 27, 2013, at Los Angeles, California.



ANDREW M. WALLET