

Name: Timothy Stephen Dennis Fell  
No. of Statement: Third  
Date: 3<sup>rd</sup> December 2021  
Exhibit: TF1

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

BIRMINGHAM DISTRICT REGISTRY

Claim No. PT-2021-BHM-000006

B E T W E E N:

MARTIN ANTHONY FELL

Claimant

-and-

1. CHRISTOPHER JOHN WILLIAM FELL
2. TIMOTHY STEPHEN DENNIS FELL
3. JONATHAN PAUL QUENTIN FELL

Defendant

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WITNESS STATEMENT  
OF THE SECOND DEFENDANT

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I, **TIMOTHY STEPHEN DENNIS FELL**, of 11 Bakers Mews, Warwick Road, Chadwick End, Solihull, West Midlands, B93 0DH **WILL STATE AS FOLLOWS:**

1. I am the Second Defendant in this matter. I make this witness statement in response to the statement of the Claimant dated 4<sup>th</sup> November 2021 ('The Claimant's Statement') and the statement of the Third Defendant dated 4<sup>th</sup> November 2021 ('The Third Defendant's Statement').
2. Attached to this statement is exhibit 'TF1', a bundle of paginated documents. Where I refer to page numbers within this Statement, I refer to page numbers of exhibit "TF1" unless otherwise stated.

3. I have read the Statement of the First Defendant and I agree with its contents. I shall not repeat the points made by him.
4. I do however wish to add the following.

### **Objection 3- Evergreen Expenses**

5. I have reviewed the spreadsheet provided by the Claimant and discussed the same with the First Defendant. I have read the First Defendant's comments in relation to the expenses and I agree with him. However, I also make the following comments:

#### Column (b) 6 – Cleaning services

Whilst some of this expense would have been incurred had the property been empty, I acknowledge that this expense may have increased whilst I lived at the property and as such, I am willing to contribute to this expense. I agree with the First Defendant that the Estate should bear half the cost. As Laurence, the Third Defendant and I were staying at the property, I am willing to contribute one third of the remaining 50% in the sum of £126.17. A schedule is attached at page 1.

#### Column (b) 7- Utilities (electric and water)

'Npower/ Severn Trent' – I recognise that these expenses may have increased whilst I was staying at the property. I agree with the Defendant that the Estate should bear 50% of the costs. As Laurence, the Third Defendant and I were all staying at the property, I agree to pay one third of the 50% not borne by the Estate for the period that I stayed at the property. A brief calculation is exhibited at pages 2 and 3. I agree to pay £322.96 towards the Npower invoices and £92.90 towards the Severn Trent bills.

Column (b) 8 - Evesons fuel – As this was required to keep the property in good order, the Estate should bear 50% of the costs. I however am willing to contribute and will pay 1/3<sup>rd</sup> towards the 50% of the share not borne by the Estate for my time in the Property, as per page 4.

6. I therefore agree to reimburse the Estate for the above expenses, totalling £1,423.90 as per page 5.
7. As to rent, I maintain that I never agreed to pay rent when I stayed at Evergreen and I maintain that this is not what my parents would have wanted.

8. I do not agree with the Claimant's summary of the meeting minutes he has provided for family meetings that took place on 22<sup>nd</sup> November 2006 and 31<sup>st</sup> January 2007. I recall the Claimant suggesting that rent should be made at the meeting on 22<sup>nd</sup> November 2006. However, I thought this was senseless. I had resided in my parent's properties before and they had never asked me to pay rent. It had also been agreed that Evergreen should not be left empty for security purposes and that Laurence should return to the property on weekends. I was therefore not living in the property for my sole benefit.
9. On review of the minutes for the meeting on 31<sup>st</sup> January 2007, I recall suggesting the three options listed in the minutes:
  - 1) 'Do not pay rent at all;
  - 2) Pay bonus on salary to cover the rent;
  - 3) Pay no rent but distribute funds'
10. I made these suggestions as I was adamant that rent should not be paid. I note the minutes then go on to say:

'It was agreed that the rent issue will be dealt with after Probate but the fact is everyone agreed it should be £600 per calendar month for both Tim and Chris with effect from 1<sup>st</sup> December 2006.'
11. These minutes do not reflect the meeting correctly. I did not suggest the above listed options and then agree to pay rent without any further discussion as the minutes suggest. We did not agree that rent would be paid.
12. I began to stay at Evergreen in February 2007 but I did not stay there all of the time as I would often stay with friends. The Claimant claims that I agreed to pay rent as of December 2006. I had not yet started staying at Evergreen and it is nonsensical that I would have agreed to pay rent when I was not staying there.

#### **Objection 5- Skerwalk**

13. I note that the Claimant no longer pursues this objection. However, the Claimant needs to account to the Estate for the monies generated from sale of the freeholds of the Skerwalk properties in the sum of £8,341.35 (and any other sums received.)
14. As per the Second Statement of the First Defendant, we understand that the monies generated from the first sale after the Deceased's death, being 19 Skerwalk, was

distributed in equal shares to all of the parties, including Laurence. However, we have received no further monies from the Skerwalk freehold sales, despite their being an additional 5 sales (as far as we are aware.) In my view, the Claimant has received and retained these monies due to the Estate and now needs to account to the Estate for the sums received. He also needs to provide information relating to the sale of the 3 remaining properties.

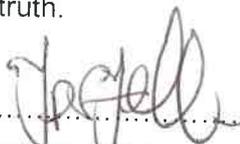
15. In 2012, GTB prepared unauthorised draft Estate Accounts which showed £5,073.72 was owed from the Estate to the Claimant, as per page 6. These were sent to the parties by Mike Ingamels on 25<sup>th</sup> January 2012 and the enclosing letter is at page 1 of Exhibit CJFW1. The parties, including the Claimant, were invited to agree these and return a signed copy to GTB. The parties were well aware that the accounts were incorrect and the first Defendant and I did not sign those accounts. However, the Claimant maintained that he was owed £5,073.72 and would not agree to any changes being made to those Estate Accounts. In my view, his resistance is what led to the delay in producing Estate Accounts.
16. We discussed the £5,073.72 at the time and I recall a conversation in which I told the Claimant that the Estate accounts were not correct and he may very well owe more to the Estate. The Claimant was adamant that he was owed £5,073.72. However, the Claimant did not sign and return the accounts to GTB, as requested by Mike Ingamels, and I maintain that he knows they were incorrect. The First Defendant, Third Defendant and I also did not sign and return the accounts.
17. In 2017, we received an enquiry from Bigwoods in relation to properties at Skerwalk in error. These would normally be sent direct to the Claimant. I contacted Bigwoods to ascertain whether there had been any other sales and they confirmed there had been sales in February 2007, July 2007, August 2008, August 2013 and June 2015. I then contacted the Claimant to discuss this, questioning why we had not received any monies from the sales of the freeholds. The Claimant said that he had kept the money from the last few sales to offset the £5,073.72 owed to him. The Claimant has therefore personally retained sums owed to the Estate, erroneously and without the permission of the First Defendant and I as Executors. The Claimant therefore needs to return to the Estate, the sum of £8,341.35 (and any further monies received to which the Estate is entitled) .

**Remaining objections**

- 18. I agree with the First Defendant's statement as to the remainder of the Claimant's objections.
  
- 19. I too would however like to highlight the costs being incurred in this dispute. They do not appear to be proportionate to the claim or the size of the Estate and, whilst I am aware that the Estate needs to be administered correctly, I do not feel that the issues at hand need to be resolved by the court.
  
- 20. I do however maintain that all parties must be willing to return over distributions to the Estate. I note that the Claimant has previously sought to rely on a fax from me to GTB, date 4<sup>th</sup> May 2012, in which I allegedly authorised payment of Estate funds to the Claimant. Whilst I recall writing the note, I did so on the understanding that the First Defendant would also need to approve the same and I intended to discuss it with him before the funds were sent.

**Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.



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TIMOTHY STEPHEN DENNIS FELL

Dated: 3/12/2021 .....

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- And -

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Defendant

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WITNESS STATEMENT OF SECOND  
DEFENDANT

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Ref: HCW/883594/FELL

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EXHIBIT TF1

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CLEANSING SERVICES

07.02.07	Cleansing Services	-£	101.00
14.05.2007	Cleansing Services	-£	107.00
25.07.07	Cleansing Services	-£	107.00
26.10.07	Cleansing Services	-£	107.00
29.01.08	Cleansing Services	-£	107.00
30.04.08	Cleansing Services	-£	114.00
29.05.08	Cleansing Services	-£	114.00
Total		-£	757.00
Total Incurred during TSDf's stay		-£	757.00
50% Estate Expense		-£	378.50
<b>TSDf's 1/3rd share of the remaining 50%</b>		-£	126.17

**NPOWER**

14.05.07	Npower	-£ 195.86
07.09.07	Npower	-£ 331.14
10.09.07	Npower	-£ 38.50
29.11.07	Npower	-£ 210.86
21.02.08	Npower	-£ 390.75
08.05.08	Npower	-£ 393.35
13.08.08	Npower	-£ 377.31
Total		-£ 1,937.77
Total Incurred during TSDF's stay		-£ 1,937.77
50% Estate Expense		-£ 968.89
<b>TSDF's 1/3rdshare of the remaining 50%</b>		<b>-£ 322.96</b>

**SEVERN TRENT**

07.02.07	Severn Trent	-£ 208.25
20.08.07	Severn Trent	-£ 123.36
06.02.08	Severn Trent	-£ 110.90
25.07.08	Severn Trent	-£ 114.90
Total		-£ 557.41
Total incurred during stay		-£ 557.41
50% Estate Expense		-£ 278.71
<b>TSDf's 1/3rd share of the remaining 50%</b>		<b>-£ 92.90</b>

**EVESONS FUEL**

26.02.07	Evesons Fuel	-£	569.84
16.04.07	Evesons Fuel	-£	689.50
06.11.07	Evesons Fuel	-£	866.57
10.01.08	Evesons Fuel	-£	897.75
11.03.08	Evesons Fuel	-£	947.57
22.05.08	Evesons Fuel	-£	1,320.01
Total		-£	5,291.24
Total Incurred during TSDF's stay		-£	5,291.24
50% Estate Expense		-£	2,645.62
<b>TSDF's 1/3rd share of the remaining 50%</b>		-£	881.87

**EXPENSES TO BE REIMBURSED BY TSDF**

Cleansing Services	£	126.17
Npower	£	322.96
Severn Trent	£	92.90
Evesons Fuel	£	881.87
Total	£	1,423.90



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