

## **Summer Intern's Erroneous Online Reporting**

When our clients need a trustee, we have a relationship with Vigil Trust to assist them. Vigil Trust acts as the trustee and hires Financial Fiduciaries to continue doing the investment work for the family going forward. Vigil Trust is run by an out-of-state trust company, for many years Investors independent Trust out of Boulder, CO but since 2016, Midwest Trust out of Kansas.

In 2014 a Financial Fiduciaries client became incapacitated and then died later that year. Vigil Trust was named successor trustee of his trust and took over as his trustee after his incapacity and worked to settle his affairs after his death. As he had no children, he left his entire trust to charitable causes.

Until 2016 Vigil Trust and FF had an arrangement whereby FF staff would assist Vigil with some of its administrative tasks. Any work done by FF staff under this arrangement was at the direction or with the approval of Vigil; i.e., FF staff had no ability to take administrative actions on their own.

One of the charitable beneficiaries of the trust disagreed with some of the administrative decisions the trustee made. They dragged the case into court to air these grievances. Although the matters about which the beneficiaries objected resulted in not one extra penny being added to their gift, three years and hundreds of thousands of dollars on attorneys' fees later, the Court ended up in March 2018, deciding that the trustee should pay for a portion of the beneficiaries' legal fees to prosecute the matter. FF staff member Tom Batterman was primarily involved as the communication intermediary between the trustee and the beneficiaries, so they asked that he also be held personally liable to them. The Court did end up finding Mr. Batterman jointly liable with the trustee for the attorneys' fees award but incorrectly based this determination on the finding that Mr. Batterman was a "trust protector" for the trust. He was not; the trust had not appointed a trust protector.

Vigil and Mr. Batterman planned to appeal the Court's decision. Vigil wanted to appeal the decision that it should be liable for the beneficiaries' attorneys' fees when there was no harm to any beneficiary from the actions the beneficiaries criticized. Mr. Batterman wanted to appeal the part of the decision that found him personally liable on erroneous grounds. Due to concerns about runaway court costs, settlements were reached between the parties in which each accepted partial payment on their award. Vigil and Batterman agreed not to pursue an appeal of the Court's findings; Vigil held Batterman harmless from contribution toward the settlements and the matter concluded.

In August 2018, an aspiring summer intern at the local paper took an interest in this case and wrote an online article about it. The article was factually incorrect in many respects and irresponsibly characterized what had transpired in the case to such an extent that a reader would have a very false impression about the matter. These misstatements and mischaracterizations are being addressed. However, anyone encountering the article will be left with an entirely incorrect impression of what really happened. Therefore, we have put a complete and accurate version of what happened in the case online at <http://www.yourfiduciaries.com/thomasbatterman>.

It is difficult to deal with the circulation of inaccurate information that cuts to the core of the trust and confidence our clients place in us to zealously safeguard their best interests in their financial affairs as their fiduciary. We have decades of experience doing excellent work for clients and hundreds of clients whose financial lives are substantially better because of their work with us. The publishing of false information does not change the fact that we do great work that positively affects people's financial lives, nor should you allow it to alter your perception of our firm or that excellent work.