THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT, IN AND FOR PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION

FILE NO. 502012CP003699XXXXMB

IN RE: ESTATE OF
RICHARD E. BLINN,

Deceased.
_____/

PATRICIA A. CARLMAN,

Petitioner,

v.

DEMETRA F. BLINN,

Respondent.
_____/

FINAL JUDGMENT

This cause came on for trial on February 4-6, 2013, and the Court received documentary evidence and heard testimony of witnesses and argument of counsel. Patricia A. Carlman, the daughter of the decedent, filed a Petition for Administration to admit a December 29, 2006 Last Will and Testament to Probate. Demetra F. Blinn, the surviving spouse, filed a Counter-Petition to admit the April 2, 2008 Last Will and Testament [hereinafter called "2008 Will"] to Probate. The Court finds for Petitioner, Patricia A. Carlman, and makes the following findings of fact and conclusions of law:

The Family Background

1. This matter concerns Richard E. Blinn ("Mr. Blinn"), who died a resident of Palm Beach County, Florida on August 1, 2012. Mr. Blinn was born on September 22, 1925. He was 86 years old at the time of his death.

2. Mr. Blinn was married four (4) times during his lifetime. He had two (2) adult children from his first marriage, Petitioner Patricia Carlman ("Patty") and Brian Blinn[1] ("Brian").

3. Mr. Blinn met his fourth wife, Respondent Demetra F. Blinn ("Faye") in the Spring of 2006. At the time, Mr. Blinn was separated from his third wife, Barbara Blinn. Mr. Blinn and Barbara Blinn finalized their divorce in June of 2006.

4. Mr. Blinn and Faye left Florida for New Hampshire in the Spring of 2007, where they were married on August 3, 2007. No family or friends were invited nor present for their civil marriage ceremony.

5. Patty had been employed by Sovereign Yachts from 2003 to 2007. This was a company that her father owned. The company lost a lot of money during that time period. She was paid a $52,000.00 annual salary which she admitted was funded from her father's personal assets.

[1] Brian was joined in this proceeding through Demetra F. Blinn's filing and formal notice service of her Counter-Petition for Administration.

6. The decedent decided to close Sovereign Yachts in 2007. A meeting was held at the decedent's lawyer's office in New Hampshire during July 2007. Present at the meeting were the decedent, his attorney and Patty. A business plan was worked out to close the Sovereign Yacht business. Patty's $52,000.00 annual salary ended at or about that date.

7. Patty admitted that she did not speak with her father or see her father in person from that July 2007 meeting until 2011. Patty admitted that she was estranged from her father from July 2007 until 2011.

8. During the time period January 2008 through April 2008, Patty lived in Jupiter, Florida. She made no effort during that time period to contact or visit her father who was at that time living in Juno Beach, Florida. She made no effort during that time period to allow her father any contact with his granddaughter.

9. During the time period that Patty was estranged from her father, Brian Blinn, who is the decedent's other child, continued to have weekly telephone calls and monthly visits and meals with his father.

Mr. Blinn's 2008 Will

10. This controversy concerns the validity of Mr. Blinn's Last Will and Testament dated April 2, 2008 (the "2008 Will"). The 2008 Will was prepared by attorney Dermot MacMahon of the Grantham Law Firm. Retired attorney John White, who was a social friend of Mr. Blinn and Faye, referred Mr. Blinn to the

Grantham Law Firm shortly before the 2008 Will's preparation and execution. Faye had also loaned Mr. White some money approximately a year prior.

11. Mr. White and Mr. Grantham were former law partners. John B. White did not discuss the 2008 Will with Mr. Blinn or Faye. John B. White claims he did not give The Grantham Law Firm instructions for the preparation of the 2008 Will. However, it was the testimony of Mr. MacMahon that Mr. White gave all instructions regarding making "My Greatest Dream, Inc." as the residuary beneficiary and the terms of the wills.

12. Faye allegedly did not know that a will would be executed on April 2, 2008 until that morning when her husband asked her to get dressed because he had made an appointment with a lawyer to prepare new wills. She did not know The Grantham Law Firm; had not spoken with their office and had never been to their office until that day.

13. According to Mr. MacMahon's testimony, he prepared mutual wills for both Mr. Blinn and Faye in advance of them coming to his office on April 2, 2008 to sign their wills. The 2008 Will was prepared by Mr. MacMahon without any prior interaction with Mr. Blinn, and without Mr. MacMahon providing any legal advice to Mr. Blinn prior to the 2008 Will's preparation. The testimony and other evidence at trial show that Mr. Blinn had no personal interaction with the Grantham Law Firm prior to April 2, 2008, and Mr. MacMahon sent a letter

confirming he had provided no legal advice to Mr. Blinn in connection with the preparation of his 2008 Will. Mr. MacMahon prepared the 2008 Will without any knowledge as to the contents of Mr. Blinn's prior wills or his then-existing estate plan.

14. On April 2, 2008, Mr. Blinn and Faye went to the Grantham Law Firm to execute their wills. Mr. MacMahon met with Mr. Blinn and Faye together in his office for less than 10-15 minutes, during which time Mr. MacMahon did not discuss Mr. Blinn's assets, how many children Mr. Blinn had, how many times Mr. Blinn had been married, or the circumstances surrounding Mr. Blinn's marriage to Faye. Mr. MacMahon testified that approximately 60% of the conversation on that day was with Faye.

15. Mr. MacMahon testified that he believed Mr. Blinn was receiving legal advice from Mr. White. However, Mr. White, who by his own admission was a tax and business lawyer and not an estate planning lawyer, testified that (i) he gave no estate planning advice to Mr. Blinn at any time on or before April 2, 2008, (ii) he did not review any draft wills with Mr. Blinn, (iii) he had no knowledge of Mr. Blinn's prior estate plan, and (iv) he did not know what changes Mr. Blinn would be making in his 2008 Will. According to Mr. White, his role in the preparation of the 2008 Will was strictly limited to his initial referral of Mr. Blinn and Faye to the Grantham Law Firm, and from what he understood all

aspects of Mr. Blinn's and Faye's estate planning were being handled by the Grantham Law Firm.

16. Mr. MacMahon acknowledged that he was uncomfortable with the circumstances surrounding his preparation of the 2008 Will, namely his lack of interaction with Mr. Blinn prior to the 2008 Will's preparation and execution.

17. The 2008 Will devises Mr. Blinn's entire estate to Faye, with My Greatest Dream, Inc. as the alternate beneficiary. The provisions of Faye's April 2, 2008 Will are identical to that of Mr. Blinn's 2008 Will. Faye's Will devises her entire estate to Mr. Blinn, with My Greatest Dream, Inc. as the alternate beneficiary. Neither the 2008 Will nor Faye's Will identify Mr. Blinn's or Faye's children by their respective names, as the wills simply categorically disinherit them as "my children."

18. My Greatest Dream, Inc. was a charitable entity that was created in 1985 by Mr. Blinn. It was corporately dissolved on or about August 7, 2008 which was only four months after he executed the 2008 Will.

19. On May 25, 2008, Faye sent an unsolicited letter to the Grantham Law Firm enclosing "doctor letters" to be attached to her will and Mr. Blinn's 2008 Will. Mr. MacMahon testified these letters were not requested by him, and he further testified that such letters would not have been sufficient because they were written in July 2007, approximately nine (9) months before the execution of the

2008 Will.

Mr. Blinn's Prior Estate Plan

20. On December 29, 2006, Mr. Blinn executed a Last Will and Testament (the "2006 Will") prepared by attorney Stuart Haft of the Alley, Maass, Rogers & Lindsay, P.A. law firm. The 2006 Will was executed approximately eight (8) months after Mr. Blinn's courtship with Faye started in the Spring of 2006. The 2006 Will devises his entire estate outright to Patty, with Mr. Blinn's granddaughter (Patty's daughter) as the alternative beneficiary. The 2006 Will was executed in accordance with § 732.502, Fla. Stat., and its validity is not in dispute in the instant case.

21. Prior to the 2006 Will, Mr. Blinn's executed a Last Will and Testament on May 19, 2000 (the "2000 Will"). The 2000 Will was executed during Mr. Blinn's marriage to Barbara Blinn. Although Mr. Blinn had been married to Barbra Blinn for 10 years at that time, the 2000 Will nevertheless devises 80% of his entire estate to Patty and Brian. The 2000 Will devised nothing to Mr. Blinn's then wife, Barbara Blinn.

Mr. Blinn's Lack of Financial Control and Impaired Judgment

22. Beginning in 2005, and possibly even earlier, Mr. Blinn started making imprudent financial decisions, which caused his local yacht brokerage business to decline significantly. The business eventually closed in 2007 after Mr.

Blinn relocated to New Hampshire with Faye.

23. During Mr. Blinn's entire marriage to Faye, Faye handled all of their bill paying and check writing. By Faye's own admission, Mr. Blinn never wrote a check. All check-writing and bill paying responsibilities were being handled by Faye, from at least August 2007 going forward.

24. Around the time Mr. Blinn and Faye were married in 2007, Mr. Blinn began actively playing mail-away scam lotteries from Australia and other foreign countries on a regular basis. According to Faye, Mr. Blinn routinely instructed her to write and mail away checks for these lotteries. Mr. Blinn and Faye spent a significant amount of money, as much as $300 or more a week, playing these scam lotteries. Faye testified that Mr. Blinn thought he was winning significant monies through these lotteries, but not surprisingly, no money was ever received. This conduct went on for at least a year, if not more, and thus occurred during and beyond Mr. Blinn's execution of the 2008 Will. Mr. White even testified that he heard mention of these lotteries around the time he had referred them to the Grantham Law Firm. Nothing in the record suggests Mr. MacMahon was advised of this unfortunate circumstance.

Mr. Blinn's Physical Health

25. Mr. Blinn suffered from numerous and serious physical infirmities beginning in 2005 and continuing until his death. Mr. Blinn was regularly

admitted to hospitals, both in Palm Beach County and in New England, where he had multiple surgeries and procedures.

26. Among other infirmities, in September and October 2005, Mr. Blinn was diagnosed with colon cancer and admitted for a colon resection (right colectomy). In October 2005, Dr. Higgins removed a tumor from Richard Blinn's colon at Jupiter Medical Center. The discharge summary reads that Richard Blinn had exhibited during the hospitalization "mild confusion very briefly." In late November 2005, Mr. Blinn was admitted to Jupiter Medical Center complaining of shortness of breath and was diagnosed with myocardial infarction, congestive heart failure, and respiratory failure. Upon discharge from Jupiter Medical Center, Mr. Blinn was transferred to Palm Beach Gardens Medical Center, where a cardiac catheterization, angioplasty, and stenting were performed. In late August 2006, Mr. Blinn was again admitted to Jupiter Medical Center complaining of shortness of breath, and was diagnosed with acute respiratory failure and transferred to Palm Beach Gardens Medical Center for another cardiac catheterization.

Mr. Blinn's Deteriorating Mental and Psychiatric Health

27. Although Mr. Blinn's physical health was on a clear decline from 2005 through his death in 2012, it is his mental and psychiatric health that cause the most concern to the Court in this case. The medical records and testimony in this case overwhelmingly evidence that Mr. Blinn suffered from progressive

dementia of the Alzheimer's type, which is also referred to in the medical community as senile dementia. The first documented diagnosis of Mr. Blinn's dementia occurred in August 2006, although Mr. Blinn was observed by his physicians and medical providers as having confusion, disorientation and forgetfulness, all of which are symptoms of dementia, as early as 2005. In addition to his dementia and declining cognitive function, Mr. Blinn also had long-standing psychiatric disorders. Mr. Blinn suffered from anxiety, depression and panic disorders beginning as early as 2002 and continuing until his death.

28. A general summary of Mr. Blinn's deteriorating mental and psychiatric health is as follows:

- From March 6, 2002 until January 26, 2004, Mr. Blinn was seen eleven (11) times by his then internist, Dr. Herman. On each visit Mr. Blinn was observed as having an anxiety syndrome for which the anti-depressant drug Paxil was continually prescribed.

- On October 5, 2005, Mr. Blinn was observed to have increased confusion and disorientation in Jupiter Medical Center.

- In late November 2005, during Mr. Blinn's hospitalization for congestive heart failure, Mr. Blinn experienced an episode of acute delirium that caused him to wander the halls of the ICU unit. Mr. Blinn became confused, hostile and agitated, and he was administered the anti-psychotic drug Haldol. Mr.

Blinn displayed disorientation, confusion, and other cognitive impairment during this hospitalization.

- On March 17, 2006, Mr. Blinn reported being confused to his then Florida internist, Dr. Murphy.

- On August 23, 2006, Mr. Blinn was readmitted to Jupiter Medical Center where his treating physician from the November 2005 hospitalization noted the Mr. Blinn had "underlying dementia" in addition to his other physical infirmities, and had "some difficulty with details of his history." During this admission at Jupiter Medical, Mr. Blinn gave inaccurate and inconsistent reports to the physicians that examined him concerning his social history, including his marital status, and his alcohol and tobacco use. He also could not accurately report what medications he was taking. At the time, Mr. Blinn was taking Aricept which is prescribed for treating dementia.

- In September of 2006, Mr. Blinn was admitted several times to Palm Beach Gardens Medical Center, where he was observed to have some memory loss and was forgetful, and he was diagnosed as having dementia.

- In December 2006, Mr. Blinn could not report his medications to his then internist (Dr. Murphy), and in January 2007 he was observed at Palm Beach Gardens Medical Center to be a "poor historian."

- Mr. Blinn resumed seeing Dr. Herman as his Florida internist in 2007. Dr. Herman had not seen Mr. Blinn in the years 2005 and 2006 when the symptoms and diagnoses of his dementia first presented. Dr. Herman's testimony evidences he was not aware of these circumstances during his subsequent treatment of Mr. Blinn.

- On February 27, 2007, Dr. Herman observed Mr. Blinn as being "very depressed" and diagnosed him with having depression and a panic disorder. Mr. Blinn continued to suffer from depression from February 27, 2007 through and beyond the 2008 Will's execution on April 2, 2008.

- In January 2009, Mr. Blinn was hospitalized at Anna Jacques Hospital in Massachusetts for the first time, at which time Mr. Blinn was still taking Aricept and his history and diagnosis of dementia was again documented.

- In August 2009, Mr. Blinn was readmitted to Anna Jacques Hospital, at which time he was only able to speak in partial sentences. He and Faye were advised during this hospitalization that Mr. Blinn should indefinitely refrain from driving.

- In March 2010, Mr. Blinn was again observed by his Florida physicians as having memory problems, confusion, and dementia. Mr. Blinn was confused to the point that on March 3, 2010, he could not figure out his own age.

By this time, Mr. Blinn had been prescribed an Exelon patch, another drug used for the treatment of dementia.

- In March of 2011, Mr. Blinn was diagnosed as having severe, progressive dementia by multiple Palm Beach County physicians, including a neurologist.

- On or about March 28, 2011, Dr. Herman, in his discharge summary from Palm Gardens Medical Center, noted that Mr. Blinn had a "history of significant dementia." Dr. Herman testified that his reference to Mr. Blinn's history of significant dementia was based on his consultation with one of Mr. Blinn's Florida physicians who had treated Mr. Blinn during the period of time Dr. Herman was not treating Mr. Blinn.

- On June 23, 2011, Mr. Blinn was adjudicated and determined to be totally incapacitated by Circuit Judge Sandra McSorley in Palm Beach County Case No. 502011MH000531. The Court appointed Patty as Mr. Blinn's plenary guardian.

- On July 27, 2011, Mr. Blinn was diagnosed with advanced dementia.

- Immediately prior to his passing, Mr. Blinn suffered from end stage dementia of the Alzheimer's type.

Mr. Blinn's Lack of Testamentary Capacity

29. Section 732.501, Fla. Stat. requires that a testator be of "sound mind" to make a will. Florida law equates "sound mind" with "testamentary capacity," and a testator possesses the requisite testamentary capacity to execute a will if the testator has the ability to understand: (1) the nature and extent of his property; (2) the testator's relation to those who would be the natural objects of his bounty; and (3) the practical effect of the instrument. See Wilmott's Estate, 66 So. 2d 465, 467 (Fla. 1953); Hendershaw v. Hendershaw, 763 So. 2d 482, 483 (Fla. 4th DCA 2000).

30. In determining whether a testator had testamentary capacity at the time a will is executed, the Court may consider evidence of the testator's mental condition before and after the execution of the will. See Zimmerman v. Zimmerman, 84 So. 2d 560, 562 (Fla. 1956). This is particularly important in cases where the testator suffered from a progressive disease that affected mental and cognitive function, as lack of testamentary capacity may be established by inferences from proof of his mental condition leading up to and following the execution of the will. As Mr. Blinn suffered from progressive dementia of the Alzheimer's type, a disease which affected his reason, judgment, and capacity, it is important for the Court to consider the medical evidence of Mr. Blinn's progressive dementia prior to and after April 2, 2008. Mr. Blinn's behavior in

2005 while on a cruise and in Rome suggests to the Court that he had early signs of dementia at that time. In addition, Brian's testimony of his behavior while visiting him in Massachusetts leads the Court to believe that he was at least delusional.

31. The Court is persuaded by the expert testimony of Stephen R. Alexander, Psy.D. ("Dr. Alexander"), who conducted a forensic review of Mr. Blinn's medical records and evidence, and opined that Mr. Blinn lacked testamentary capacity to execute a will on April 2, 2008. Dr. Alexander is a licensed psychologist with 27 years of experience, and he has extensive familiarity with dementia and the progression and effects of the disease in patients. Based on the multitude of symptoms and diagnoses of dementia contained in Mr. Blinn's medical records, Dr. Alexander testified, and the Court finds, that the progression of Mr. Blinn's dementia and its probable effects on Mr. Blinn's judgment and cognitive abilities was such that Mr. Blinn did not have testamentary capacity on April 2, 2008 to execute the 2008 Will.

32. Faye's defense relies heavily on the medical records and observations of internist Dr. Herman to support her argument that Mr. Blinn had testamentary capacity on April 2, 2008. However, Dr. Herman testified that he did not have a complete picture of Mr. Blinn's mental health in 2008. Dr. Herman was not aware in 2008 and 2009 of Mr. Blinn's prior hospital admissions and diagnoses of dementia in 2005 and 2006. Moreover, Dr. Herman testified he had no discussions

with Mr. Blinn about his assets or finances, and he did not examine Mr. Blinn for the purpose of determining Mr. Blinn's ability to sign legal or estate planning documents.

33. In addition to the medical evidence and the expert testimony of Dr. Alexander, there is additional evidence that Mr. Blinn lacked testamentary capacity when he executed his 2008 Will. First, the 2008 Will was signed during a time when Mr. Blinn believed he was winning significant monies through the above-referenced scam lotteries, which evidences Mr. Blinn had a lack of appreciation for his assets when the 2008 Will was executed. Second, approximately four (4) months after the 2008 Will was executed, Mr. Blinn and Faye executed papers which caused the corporate dissolution of My Greatest Dream, Inc., which was the named remainder beneficiary under Mr. Blinn's and Faye's 2008 Wills. The Court finds that, had Mr. Blinn understood the provisions of his 2008 Will on April 2, 2008, he would not have shortly thereafter dissolved the sole, charitable beneficiary that would ultimately inherit under his and Faye's joint estate plan.

34. Lastly, Mr. MacMahon acknowledged he had no discussions with Mr. Blinn about his assets, and Mr. Blinn did not identify how many children he had during the 10-15 minute meeting on April 2, 2008. Given the perfunctory nature of the execution ceremony at the Grantham law office on April 2, 2008, the complete lack of legal advice offered to Mr. Blinn prior to April 2, 2008

concerning his 2008 Will, and Mr. Blinn's subsequent actions which were inconsistent with the provisions of his 2008 Will, the Court finds Mr. Blinn did not understand the nature and extent of his assets, the natural objects of his bounty, and the practical effect of the 2008 Will on April 2, 2008.

35. The Court therefore finds and concludes that the 2008 Will is invalid due to Mr. Blinn's lack of testamentary capacity on April 2, 2008.

Inference of Faye's Undue Influence

36. Even if Mr. Blinn possessed testamentary capacity on April 2, 2008, the Court finds the 2008 Will was procured by undue influence and is therefore void under § 732.5165, Fla. Stat.

37. Section 732.5165, Fla. Stat. provides that a will is void if procured by fraud, duress, mistake, or undue influence. Undue influence occurs when a testator's mind is so controlled or affected by persuasion or pressure, artful, or fraudulent contrivances, or by the insidious influences of persons in close confidential relationship with him, that the testator is not left to act intelligently, understandingly, and voluntarily, but subject to the will or purpose of another. In re Duke's Estate, 219 So. 2d 124, 126 (Fla. 2d DCA 1969). The theory which underlies the doctrine of undue influence is that a testator is induced by various means, to execute an instrument which, although his, in outward form, is in reality not his will, but the will of another person which is substituted for that of testator.

In re Estate of Winslow, 147 So. 2d 613, 617 (Fla. 2d DCA 1962).

38. Undue influence can be shown without the benefit of a Carpenter presumption of undue influence. Blits v. Blits, 468 So. 2d 320, 322 (Fla. 3rd DCA 1985). When the presumption of undue influence is not raised, the will challenger has the burden of establishing undue influence by the greater weight of the evidence. Id.

39. Florida case law recognizes that undue influence occurs in the dark and is seldom proven by direct evidence. Estate of Davenport, 180 So. 2d 176, 178 (Fla. 2d DCA 1965). Undue influence may be shown by the results, and may be proved by indirect evidence of acts and circumstances. Id. at 178. Undue influence is not usually exercised openly in the presence of others so that it may be directly proved, and therefore it may be proved by indirect evidence of facts and circumstances from which it may be inferred. In re: Burton's Estate, 45 So. 2d 873, 875 (Fla. 1950). No one of such facts or circumstances, when considered alone, may be of much weight, but, when combined with other facts, may be sufficient to establish the issue. Id. at 875.

40. There is rarely any direct evidence establishing undue influence, and accordingly, direct evidence is not necessary to establish undue influence. In re Reid's Estate, 138 So.2d 342, 350 (Fla. 3rd DCA 1962), overruled on other grounds. Moreover, undue influence can apply to a transaction even when the

person being influenced appears to be in full possession of his faculties. See, Bernal v. Roncallo, 269 So. 2d 766, 767 (Fla. 3d DCA 1972).

41. The opportunity to exercise influence over a testator is a circumstance that may be considered. Gardiner v. Goertner, 149 So. 186, 190 (Fla. 1933). The evidence in this case shows Faye had the opportunity, motive, and demeanor to impose her will on Mr. Blinn. They lived together and saw each other daily. Faye handled all of their bill paying and check writing. Additionally, Faye, not Mr. Blinn, corresponded with the Grantham Law Firm. She sent the unsolicited "doctor letters" to the Grantham Law Firm shortly after the 2008 Will was signed, and she engaged in subsequent communications with the firm. Conversely, there are no records or other evidence suggesting Mr. Blinn had any interaction with the Grantham Law Firm other than the perfunctory will execution on April 2, 2008.

42. It is important in considering whether undue influence was exercised in the making of the will to consider the mental and physical condition of the testator at the time the will was executed. In re Reid's Estate, 138 So. 2d 342, 349 (Fla. 3d DCA 1962), overruled on other grounds. The more impaired the testator, mentally and physically, the less influence is required to infer undue influence. See, Gardiner, 149 So. at 189. The medical records and testimony show that Mr. Blinn was susceptible to undue influence due to his declining physical state, anxiety disorders, depression, and progressive dementia. Dr. Herman testified that

depression and anxiety significantly weaken a person's cognitive ability, and that anxiety makes a person "more and more liable to get confused." The Court further finds Mr. Blinn's physical and mental infirmities also impaired his judgment. An example of Mr. Blinn's impaired judgment occurred in November of 2005 when he allowed a "lady friend," whom was unknown to his family, to share his bed during one of his hospitalizations in Jupiter Medical Center. Additionally, the aforementioned scam lotteries that Mr. Blinn regularly fell victim to evidenced Mr. Blinn's impaired judgment before, during, and after the 2008 Will's execution.

43. Oftentimes, undue influence is established by the results of what has transpired. Id. at 350. A will which deviates from the testator's long-time estate plan is a "strong circumstance" to be considered in determining the question of testamentary capacity and undue influence. Newman v. Smith, 82 So. 236, 246 (Fla. 1919). Even after meeting Faye in the Spring of 2006, Mr. Blinn nevertheless proceeded to execute his 2006 Will, leaving his entire estate to Patty. The 2006 Will was consistent with his prior pattern of leaving his estate to his children, as evidenced by his execution of his 2000 Will, which was signed during Mr. Blinn's lengthy marriage to Barbara Blinn. Mr. Blinn's execution of the 2008 Will leaving his entire estate to Faye, to whom he had only been married for eight (8) months, was an abrupt deviation from his prior, long-standing testamentary intentions.

44. The circumstance that other acts were the result of undue influence may be material evidence that the particular act (in the instant case the execution of Mr. Blinn's 2008 Will) was also the result of such influence. Gardiner, at 190. A clear example of Faye Blinn's undue influence over Mr. Blinn occurred in March of 2011, around the time of Mr. Blinn's guardianship proceedings. On March 9, 2011, Faye Blinn contacted the Grantham Law Firm and requested that they prepare estate planning documents for Mr. Blinn including a durable power of attorney in favor of Faye. Faye directed the Grantham Law Firm to send her the documents and she would have them signed, witnessed and notarized. On March 11, 2011, the Grantham Law Firm complied with Faye's request. At the time, Mr. Blinn was hospitalized, had been diagnosed with severe, progressive dementia, and was shortly thereafter adjudicated totally incapacitated. If Faye was so bold to openly display such influence over Mr. Blinn under these circumstances, the Court can reasonably infer that similar or greater influence was occurring in the dark during their marriage.

45. Lastly, undue influence can arise when certain family members poison the mind of the testator against another family member. See, In Re: Ates Estate, 60 So.2d 275 (Fla. 1952). The testimony and evidence show Faye, who herself was estranged from her own children during her marriage to Mr. Blinn, undertook conduct and actions to alienate Mr. Blinn from his children, most notably Patty.

There is no factual evidence to support Mr. Blinn's purported beliefs that Patty was stealing from him or otherwise took improper actions under the power of attorney he signed in 2005. To the contrary, the evidence shows Patty attempted to assist Mr. Blinn during strenuous financial difficulties caused by Mr. Blinn's own imprudent business decisions, and it was Faye who turned Mr. Blinn against his daughter. Patty testified that her father was being taken advantage of by other yacht brokers which further evidences his susceptibility. The most compelling testimony was that of Tom Worth, a former broker who worked with Mr. Blinn and Patty. His testimony regarding statements Faye made to Mr. Blinn in 2008 regarding Patty leads the Court to believe she was intimidating Mr. Blinn which would make him susceptible to undue influence.

46. In addition, Faye attempted to alienate Mr. Blinn from Brian by insisting that they not attend his wedding. Other nu8ances of Faye's behavior leads the Court to believe she exercised undue influence over Mr. Blinn, e.g., having the life insurance policies changed to show her as the beneficiary wherein she wrote her name. The fact that Mr. Blinn did not respond to letters or Federal Express packages from Patty and his granddaughter is further evidence of undue influence. The uncontradicted testimony was that Mr. Blinn had a good relationship with his granddaughter.

WHEREFORE, the Court finds in favor of Petitioner Patricia Carlman and

Brian Blinn and against Respondent Demetra F. Blinn and enters Judgment:

A. Granting Patricia Carlman's Petition for Administration;

B. admitting the Last Will and Testament dated December 29, 2006 for probate administration;

C. invalidating the Last Will and Testament dated April 2, 2008; and

D. appointing Patricia Carlman personal representative pursuant to Article VIII of the December 29, 2006 Will.

This Judgment entered in West Palm Beach, Palm Beach County, Florida this _____ day of _____ 2013.

SIGNED & DATED
FEB 28 2013
JUDGE DIANA LEWIS

_____
DIANA LEWIS
CIRCUIT COURT JUDGE

Copies furnished to:

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