

## New Jersey Supreme Court Holds That Marty Richards, Broadway and Film Producer, Is Within The Class Of Beneficiaries Of The 1961 J. Seward Johnson, Sr. Charitable Trust

April 3, 2008

On April 3, 2008, the New Jersey Supreme Court held that Marty Richards, Broadway and film producer, was within the class of beneficiaries of the 1961 J. Seward Johnson, Sr. Charitable Trust. **Alan S. Naar** and **Olivier Salvagno**, partners of the Litigation Department, successfully represented Mr. Richards in the twelve-year case that ultimately recognized him as a member of the Johnson family group as the surviving spouse of Mary Lea Johnson, one of J. Seward Johnson's four oldest children.

The Trust was established by Johnson in 1961, and for the first 35 years, the Trustees were required to make distributions to charities. Starting in 1997, the Trustees were required to make distributions to a class of beneficiaries that includes Johnson's four oldest children, "their spouses, and their issue."

The Supreme Court held that, under the doctrine of probable intent (which analyzes what the grantor of the trust intended when the trust was created, and what he would have done had he envisioned the present dispute), Johnson probably intended that surviving spouses of his four oldest children named in the Trust be included within the class of "spouses" beneficiaries eligible to receive distributions from the Trustees of the Trust in their absolute and uncontrolled discretion.

The Supreme Court affirmed the decision of the New Jersey Appellate Division, which in turn had affirmed the decision of Judge Joseph C. Messina, Superior Court of New Jersey, Chancery Division, Middlesex County, who had held in favor of Richards after a six-day trial conducted in 2003. Mr. Naar and Mr. Salvagno represented Mr. Richards in connection with the trial court, Appellate Division, and Supreme Court proceedings.

In affirming the decisions of the lower courts, the Supreme Court held that "[t]he record fully supports the trial judge's findings and conclusions," and that "there was substantial credible evidence in the record as a whole to support the judge's conclusion that Johnson wanted a broad class of possible beneficiaries, including surviving spouses."

In commenting on the decision, Mr. Naar stated, "We are very pleased that the New Jersey Supreme Court has recognized that Mr. Richards is entitled to be within the class of beneficiaries of the 1961 Trust. While this matter has moved through twelve long years of proceedings before the trial and appellate courts, the decision of the Supreme Court brings well-deserved finality to Mr. Richards' consistent and

passionate position that he is a member of the Johnson family and a member of the class of beneficiaries of the Trust.”

The Trust had a value of approximately \$300 to \$350 million at the time of the trial.

Alan S. Naar is a partner of the firm, where he is Vice Chair of its Litigation Department and concentrates his practice in commercial litigation and trust and estate litigation in the federal and state courts. He serves as chair of the Dispute Resolution Practice Group and is a member of the Redevelopment Practice Group and Technology Practice Group. He can be contacted at [anaar@greenbaumlaw.com](mailto:anaar@greenbaumlaw.com) or 732-476-2530. Olivier Salvagno is a partner of the firm in its Litigation Department, and concentrates his practice in business litigation, real estate litigation, and trust and estate litigation in the federal and state courts.

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