

CITY COURT
COUNTY OF ALBANY

CITY OF ALBANY
STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

RICHARD SHERWOOD and
THOMAS LAGAN,

Defendants.

FELONY COMPLAINT

BE IT KNOWN THAT, by this Complaint, Investigator Mark Spencer, as the Complainant herein, a police officer with the Office of the New York State Attorney General, Albany, New York, accuses the defendants, RICHARD SHERWOOD and THOMAS LAGAN, with having committed the following crimes: Grand Larceny in the First Degree in violation of P.L. § 155.42, a class B Felony (two counts); Scheme to Defraud in the First Degree in violation of P.L. § 190.65(1)(b), a class E Felony; and Criminal Possession of Stolen Property in the First Degree in violation of P.L. § 165.54, a class B Felony (SHERWOOD - two counts; LAGAN – two counts).

COUNT ONE

The defendants, RICHARD SHERWOOD and THOMAS LAGAN, committed the crime of GRAND LARCENY IN THE FIRST DEGREE, in violation of Penal Law § 155.42, a class B felony, on or about February 20, 2013 through January 2, 2015, in the City of Albany, County of Albany, State of New York, and elsewhere, when they stole property, and the value of the property exceeded one million dollars (\$1,000,000), to wit, the defendants intentionally and wrongfully took, obtained, or withheld money from the Pauline U. Bruggeman Revocable Trust ("PBRT") in an amount in excess of one million dollars (\$1,000,000) by failing to return the money to the PBRT. That money was being held in trust in the Anne S. Urban Irrevocable Trust ("AUIT") account for the benefit of Anne S. Urban's health, education, maintenance, and support during her lifetime. After the death of Anne S. Urban any remaining money was to be returned to the PBRT and distributed to six named charities in established percentages as part of

the residue of the PBRT; instead, the defendants kept the money to benefit themselves.

COUNT TWO

The defendants, RICHARD SHERWOOD and THOMAS LAGAN, committed the crime of GRAND LARCENY IN THE FIRST DEGREE, in violation of Penal Law § 155.42, a class B felony, on or about February 27, 2012 through January 2, 2015, in the City of Albany, County of Albany, State of New York, and elsewhere, when they stole property, and the value of the property exceeded one million dollars (\$1,000,000), to wit, the defendants intentionally and wrongfully took, obtained, or withheld money from Julia U. Rentz that she received from the Family Trust contained within the PBRT in an amount exceeding one million dollars (\$1,000,000) by falsely representing to the attorney-in-fact for Ms. Rentz and an Ohio attorney that advised the attorney-in-fact, both of whom are known to this investigator, that the relinquishment of these monies would result in the funds being distributed to charity all while knowing that the funds were being transferred to an account located at LPL Financial entitled the AUIT, solely controlled by the defendants, and the money was distributed to and kept by the defendants for their own benefit.

COUNT THREE

The defendants, RICHARD SHERWOOD and THOMAS LAGAN, committed the crime of SCHEME TO DEFRAUD IN THE FIRST DEGREE, in violation of Penal Law § 190.65(1)(b), a class E felony, on or about August 9, 2011 through January 2, 2015, in the City of Albany, County of Albany, State of New York, and elsewhere, when they engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtained property with a value in excess of one thousand dollars (\$1,000.00) from one or more such persons, to wit, the defendants engaged in a systematic ongoing course of conduct that resulted in the transfer of monies from various Estates and individuals into the AUIT, from which it was transferred to their personal accounts, with the intent to defraud and obtain property from these Estates and individuals, including Julia U. Rentz, by false pretenses and false representations that the transfer of these monies into the AUIT would result in the monies being distributed to various

charitable organizations favored by Anne Urban and Warren and Pauline Bruggeman, when in fact the monies were distributed to the defendants for their personal benefit, and such conduct resulted in the defendants obtaining in excess of one thousand dollars (\$1,000.00) from Rentz and other individuals and Estates.

COUNT FOUR

The defendants, RICHARD SHERWOOD and THOMAS LAGAN, committed the crime of CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FIRST DEGREE, in violation of Penal Law § 165.54, a class B Felony, on or about January 2, 2015 in the City of Albany, County of Albany, State of New York, and elsewhere, when they knowingly possessed stolen property, with intent to benefit themselves or a person other than an owner thereof or to impede the recovery by an owner, and when the value of the property exceeds one million dollars (\$1,000,000.00), to wit, the defendants did knowingly possess in a NBT bank account ending in 5441 entitled the Empire Capital Trust DTD, which the defendants had signatory authority over, monies having a value in excess of one million dollars (\$1,000,000.00) that were wrongfully taken, obtained, or withheld from the Pauline Bruggeman Revocable Trust, the estate of Anne S. Urban, and Julia Rentz.

COUNT FIVE

The defendant, RICHARD SHERWOOD, committed the crime of CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FIRST DEGREE, in violation of Penal Law § 165.54, a class B Felony, on or about January 2, 2015, in the City of Albany, County of Albany, State of New York, and elsewhere, when he knowingly possessed stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner, and when the value of the property exceeds one million dollars (\$1,000,000.00), to wit, the defendant SHERWOOD did knowingly possess in a Trustco bank account ending in 4640, which the defendant SHERWOOD had signatory authority over, monies having a value in excess of one million dollars (\$1,000,000.00) that were wrongfully taken, obtained, or withheld from the Pauline Bruggeman Revocable Trust, the estate of Anne S. Urban, and/or Julia Rentz.

COUNT SIX

The defendant, THOMAS LAGAN, committed the crime of CRIMINAL POSSESSION OF

STOLEN PROPERTY IN THE FIRST DEGREE, in violation of Penal Law § 165.54, a class B Felony, on or about January 2, 2015, in the City of Albany, County of Albany, State of New York, and elsewhere, when he knowingly possessed stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner, and when the value of the property exceeds one million dollars (\$1,000,000.00), to wit, the defendant LAGAN did knowingly possess in a Trustco bank account ending in 2101, which the defendant LAGAN has signatory authority over, monies having a value in excess of one million dollars (\$1,000,000.00) that were wrongfully taken, obtained, or withheld from the Pauline Bruggeman Revocable Trust, the estate of Anne S. Urban, and/or Julia Rentz.

FACTUAL BASIS

This felony complaint is made by me on direct knowledge and upon information and belief. The source of my information and the grounds for my belief include but are not limited to the following: (a) my training, experience and participation in an investigation conducted by the New York State Office of the Attorney General and the Federal Bureau of Investigation; (b) an interview of Richard SHERWOOD; (c) interviews of various witnesses; (d) my review of documents obtained from the Schenectady County and Albany County Surrogates Courts; (e) my review of financial and other records received from various financial institutions.

OVERVIEW

1. RICHARD J. SHERWOOD (d.o.b 03/08/60) is an attorney with the firm of Mazzotta, Sherwood, & Vagianelis, at 9 Washington Square, Washington Ave. Extension, Albany, New York. He also serves, part-time, as one of the judges for the Town of Guilderland. He was admitted to practice in New York State in 1988.

2. THOMAS K. LAGAN (d.o.b. 08/04/58), during most of the events described herein, was employed as an investment advisor with a national financial planning company ("Financial Advisor Co."). LAGAN is an attorney, admitted to practice in New York in 1986, though his primary employment has been as a financial advisor. He is not currently employed by the Financial Advisor Co..

3. Anne Urban was born on March 4, 1920, and was a resident of Watervliet, Albany County, and Niskayuna, Schenectady County. She worked most of her adult life at General Electric as a secretary. Urban never married and had no children. She had two sisters,

Pauline Bruggeman and Julia Rentz. She died on February 20, 2013, at age ninety-two, having suffered from declining health in the period before her death.

3. Pauline Bruggeman, née Urban, Anne Urban's sister, resided in Niskayuna until her death of cancer at age eighty-seven on August 9, 2011, predeceasing Anne. She was the widow of Warren Bruggeman.

4. Warren Bruggeman was the head of Global Nuclear Energy for General Electric and a generous philanthropist to Capital District charities. He died on April 28, 2009, with his assets passing to his wife Pauline.

5. Julia Rentz, née Urban, Anne Urban and Pauline Bruggeman's sister, resided in Ohio until her death on September 22, 2013 at age ninety-five. She had been suffering from dementia in the years before her death.

6. RICHARD SHERWOOD and THOMAS LAGAN have provided estate planning and related legal and financial services to Warren Bruggeman, Pauline Bruggeman, and Anne S. Urban since at least 2006.

7. On July 12, 2006, Warren and Pauline Bruggeman each created a revocable trust - the Warren H. Bruggeman Revocable Trust ("WBRT") and the Pauline Bruggeman Revocable Trust ("PBRT"). On the same day, each person signed a will stipulating that all estate assets individually owned by each person would flow through their respective trusts in an arrangement known as a "spillover trust." SHERWOOD witnessed the signatures of both individuals on all of the documents.

8. Warren's will name Pauline as the Executrix, with Anne Urban as first alternate, and Pauline's will named Warren as Executor, with Anne Urban as first alternate. Both wills named THOMAS LAGAN as the second alternate in the case that the primary or first alternate were unable or unwilling to act as Executor/Executrix.

9. On or about January 15, 2008, Anne Urban signed a Power of Attorney ("POA") naming SHERWOOD and LAGAN as "successor agents".

10. On April 28, 2009, Warren Bruggeman died. He was survived by his wife Pauline Bruggeman, Anne Urban's sister. Based on a review of Schenectady County probate records and the WBRT, Warren's assets flowed through the WBRT to Pauline, his surviving spouse. According to Schenectady County Surrogate's Court records, Pauline received approximately \$8,470,000 from the WBRT, with approximately \$3,570,000 in additional joint

property. The WBRT created an entity known as the "Family Trust." The Family Trust was funded with \$4,185,353.46 from the estate of Warren Bruggeman. According to the terms of the Family Trust, Anne Urban and Julia Rentz were to evenly divide the remaining funds upon the death of their sister Pauline Bruggeman.

11. On August 9, 2011, Pauline Bruggeman, Anne Urban's sister, died while a resident of Schenectady County. Based on a review of the bank records for Pauline Bruggeman, the PBRT, and the Family Trust that OAG Auditor Meaghan Scovello conducted, Pauline's personal and trust assets at the time of her death were approximately \$19,838,789.12.

12. The "Family Trust" with a balance of approximately \$4,185,353.46, which was contained within the PBRT, awarded the balance to be distributed equally between Anne Urban and Julia Rentz. The PBRT also awarded Anne Urban \$2,000,000 as an outright bequest, and it dictated that an additional \$2,000,000.00 would be maintained for the "health, education, maintenance and support" of Anne Urban and "shall continue to be held by the TRUSTEE, IN TRUST, which trust shall be known as the 'Urban Trust.'" "Upon the subsequent death of ANNE S. URBAN, the then remaining principal and undistributed income of the Urban Trust shall be distributed as part of the residue of this [PBRT] Trust." Under the terms of the PBRT, any residual funds must then be distributed to six named charities in established percentages.

13. On September 7, 2011, Anne Urban signed a Renunciation of Nominated Executrix and Trustee, appointing Thomas Lagan as the Executor for Pauline Bruggeman's estate and SHERWOOD as the Successor Trustee of the PBRT. SHERWOOD also served as the estate attorney.

14. Financial Advisor Co. provided OAG with LAGAN's emails regarding the Bruggeman and Urban matters. On September 29, 2011, SHERWOOD emailed LAGAN, attaching his submission to Schenectady County Surrogate's Court regarding the estate of Pauline Bruggeman. In the email, he expressed concern that the Court would "require[e] the AG to be involved for the charities. Keep your fingers crossed." Based on my review of the case documents and discussions with OAG attorneys, I believe SHERWOOD's reference to "the AG [being] involved" relates to the OAG's statutory authority over charities. Presumably, if Schenectady Surrogate's Court brought the OAG in to the Bruggeman estate matter, OAG attorneys would have been positioned to safeguard the charities' interests and track the \$2,000,000 Urban Trust.

15. In 2011, Julia Rentz (then living in Ohio) was suffering from dementia. She had appointed her friend as attorney-in-fact. This friend was assisted in her role as attorney-in-fact by an Ohio attorney (“Ohio Attorney”). As part of this investigation, I have interviewed the Ohio Attorney about this representation.

16. On September 8, 2011, SHERWOOD mailed the Ohio Attorney a copy of the PBRT. The Ohio attorney recalled speaking with SHERWOOD over the phone in February 2012 about Julia Rentz’s assets. She was concerned, since Julia’s daughter was deceased and Julia was not of sound mind to write a new will, that Julia Rentz’s eventual estate would escheat to the State of Ohio. According to the Ohio Attorney, SHERWOOD expressed his shared concerns about the state of Ohio taking the assets and they discussed a plan to prevent it. The Ohio Attorney was aware, that Julia and her sisters were generous donors to charities.

17. On November 9, 2011, Anne Urban signed an amendment to her POA, adding a gift rider, which empowered SHERWOOD and LAGAN (as attorneys-in-fact) to give gifts from her assets. However, by the terms of the POA, SHERWOOD and LAGAN were barred from “self-gifting”.

18. On November 30, 2011, Anne Urban signed the Anne S. Urban Irrevocable Trust (“AUIT”). The AUIT named RICHARD SHERWOOD as Trustee and THOMAS LAGAN as Successor Trustee; it was drafted by SHERWOOD. The AUIT granted the Trustee, SHERWOOD, the power to distribute the principal of the trust to “any person ... specifically including the TRUSTEE and/or the SUCCESSOR TRUSTEE ... but only with the express written consent of the SUCCESSOR TRUSTEE then serving.” LAGAN was the Successor Trustee. This structure allowed SHERWOOD and LAGAN to directly benefit from the AUIT.

19. On December 6, 2011, SHERWOOD transferred \$2,000,000 from the Pauline Bruggeman estate account at Trustco Bank to the AUIT account at LPL Financial. On January 30, 2012, he made a second transfer of \$2,000,000 from the Pauline Bruggeman estate account with Goldman Sachs to the AUIT LPL Financial account in which the assets of the AUIT were held on January 30, 2012.

20. From February 13, 2012 to February 28, 2013, the attorney-in-fact for Julia Rentz, after consulting with the Ohio Attorney, made four transfers totaling \$2,905,499.37 from Julia’s Fidelity account to the AUIT’s LPL Financial account. The Ohio Attorney believed, based on her communications with SHERWOOD, that the funds would be given to the charities listed in

the PBRT. However, the contents of Julia Rentz's LPL Financial account, which held Julia's Family Trust proceeds, were not sent to an account associated with the PBRT, to be distributed to charities. Instead, based on directives from SHERWOOD, the funds were directed to the Anne S. Urban Irrevocable Trust, under the control of SHERWOOD and LAGAN.

21. Anne Urban died on February 20, 2013. In March 2014, after Anne Urban's death, distributions were made to the six charities named in the PBRT, however, the distributions were drawn on a PBRT NBT Bank account that was not funded, at any point, by the residue that should have come from the AUIT LPL Financial account upon Anne's death in February 2013. The payments were made only with funds that had remained in Pauline Bruggeman's estate and the PBRT. According to the terms of the PBRT, upon Anne's death any remaining funds from the \$2,000,000 in trust must be returned to the PBRT for distribution to the six named charities. Rather than being returned to the PBRT to be distributed to those named charities, all remaining funds were in fact disposed of through the AUIT, primarily for the benefit of SHERWOOD and LAGAN.

22. On December 19, 2014, the Empire Capital Trust was formed, for the benefit of SHERWOOD and LAGAN, with SHERWOOD as trustee. On January 2, 2015, SHERWOOD authorized a wire transfer from the AUIT (Fidelity Account) to the Empire Capital Trust account at NBT ending in 5441.

23. On January 2, 2015, SHERWOOD authorized a wire transfer of \$3,598,908 from the AUIT (Fidelity Account) to an account in his name at Trustco Bank ending in 4640. SHERWOOD also authorized a wire transfer of \$2,693,865.92 from the AUIT (Fidelity Account) to an account in THOMAS LAGAN's name at Trustco Bank ending in 2101, which was likewise received on January 2, 2015.

24. On February 21, 2018, I interviewed SHERWOOD at the law office of Mazzotta, Sherwood & Vagianelis. During that interview SHERWOOD admitted, in sum and substance, that he and Lagan conspired to deceive the Ohio Attorney into authorizing the wiring of in excess of \$2,000,000 to the AUIT. He also admitted that the AUIT was a mechanism used to steal the estate funds and that he and Lagan divided the proceeds of this scheme in roughly even amounts. SHERWOOD also stated that the scheme, including the wording of the trusts, was devised by Lagan but that he, Sherwood, drafted the documents in order to effectuate it.

Notice: Any person who knowingly makes a false statement in a written instrument such as this Felony Complaint and which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a class A misdemeanor (Penal Law § 210.45).

Dated: February 23, 2018

BY: 
Investigator Mark Spencer