

A P P E A R A N C E S

FOR THE PETITIONER BOB MARSHALL DENISON:

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FOR THE RESPONDENT JOHN WAYNE DENISON:

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FOR LINDSEY LEIGH DENISON AND WESTON MARSHALL DENISON:

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1 (Whereupon the following is an excerpt of
2 the proceedings that were held in the
above-named cause:

3 THE COURT: Would all counsel identify
4 themselves for the record? We've got Mary Ross being our
5 reporter today.

6 MR. WARE: I'm Travis Ware. I am co-counsel
7 with Suzie Shay for the applicant for this injunction, Bob
8 Denison.

9 MR. CASTRO: Isaac Castro, Your Honor, attorney
10 for John Wayne Denison, independent executor of the estate of
11 Ida Baldwin Denison.

12 MR. STANTON: Good morning. I am Vance Stanton.
13 I'm attorney for John Denison, independent executor and
14 trustee of the estate of Ida Baldwin Denison. I'm co-counsel
15 with Mr. Castro.

16 MR. LEGGETT: My name is Ken Leggett, Your
17 Honor, and I represent Jessica Denison.

18 MR. STAMEY: Your Honor, I'm Frank Stamey, and I
19 am the ad litem for Weston Denison and Lindsey Denison.

20 THE COURT: Thank you all.

21 Cause No. 4222-A, on the motion of the -- of
22 John Morrison Denison -- Bob Marshall Denison. Are y'all
23 ready to proceed?

24 MR. WARE: Yes, Your Honor, we are.

25 THE COURT: Mr. Castro, are you ready?

1 THE WITNESS: \$447,000.

2 (Petitioner's Exhibit No. 1 marked.)

3 Q. (By Mr. Ware) Let me show you what I've marked here
4 as Petitioner's Exhibit No. 1 for the purpose of
5 identification. Are you familiar with a note that was owed to
6 the Aspermont bank and its accompanying deed of trust in the
7 amount of \$260,000?

8 A. In the amount of \$260,000?

9 Q. Yes, sir, a \$260,000 note.

10 A. Yes, the note -- one of the notes that had -- was --
11 that we had paid was \$278,000. It may have originally been
12 made at \$260,000. I'm unclear --

13 Q. Well, then, are you familiar with a note that was
14 secured by a \$230,000 deed of trust, or it was a \$230,000 note
15 secured by a deed of trust in 1996?

16 A. If I -- if it's the one that we had paid for
17 \$278,000, yes.

18 Q. Let me show you what's been marked as Petitioner's
19 Exhibit No. 1 for the purposes of identification. I represent
20 to you that this is a certified copy from the deed records,
21 and I ask you to look at that and tell me whether or not you
22 can identify it, please.

23 THE COURT: Have you ever seen that document
24 before, Mr. Denison?

25 THE WITNESS: Yes, sir, I believe I have.

1 the amount? The dollar amount was originally \$230,000.

2 A. Correct.

3 Q. Okay. And this was secured by certain tracts of
4 property, surface only. Do you see that?

5 A. Correct, yes.

6 Q. Okay. And they were tracts of land that encompassed,
7 to your knowledge, approximately -- or exactly, two sections
8 of land. Is that correct?

9 A. Correct.

10 (Petitioner's Exhibit No. 2 marked.)

11 Q. (By Mr. Ware) Now, let me show you now what I'm
12 going to mark as Petitioner's Exhibit No. 2, and I want to
13 show you -- first of all, do you see the date on Exhibit No. 1
14 here is March 14, 1996?

15 A. Yes.

16 Q. And the date that your parents signed this deed of
17 trust would have been the 14th day of March, 1996.. Do you see
18 that?

19 A. Yes.

20 Q. It was filed of record the 15th day of March, 1996.

21 A. Right.

22 Q. Now, clearly, when they signed that, they were both
23 living.

24 A. Right.

25 Q. Would you agree with that?

1 Q. Okay. Now, at that time, Mr. Denison, the last of
2 your surviving parents, Ida, was deceased. Is that correct?

3 A. That's correct.

4 MR. WARE: We offer Petitioner's Exhibit No. 2,
5 Your Honor. I furnished copies to both defense counsel. It
6 is certified, also.

7 MR. STANTON: Being a certified copy and it has
8 not been altered at all, then we have no objection.

9 THE COURT: Without objection, Petitioner's
10 Exhibit 2 is admitted.

11 (Petitioner's Exhibit No. 2 admitted.)

12 Q. (By Mr. Ware) Now, did you perceive that signing a
13 deed of trust to extend the earlier loan, did you perceive
14 that to be an act that you needed to do for the estate?

15 A. Yes.

16 Q. And was that what this second note was for,
17 Petitioner's Exhibit No. 2, an extension of the earlier note?

18 A. The second note?

19 Q. Yes.

20 A. I'm unclear of your -- of this, sir. You've shown me
21 one there that I have signed, the second one --

22 THE COURT: What he's asking you, your parents
23 signed this note for 230,000, and then a couple of years later
24 you signed one for 260. He's asking you was this -- was this
25 a renewal and extension of that?

1 THE WITNESS: Okay. Yes, sir, it is.

2 MR. STANTON: Your Honor, if I may approach,
3 I'll be glad to give him an extra copy of Exhibits 1 and 2.

4 THE COURT: Yeah, thank you.

5 MR. WARE: Well, I can do that, except that's
6 the only copies I've got left.

7 THE COURT: He can have the original exhibits,
8 Mr. Stanton.

9 MR. STANTON: May I hand these to you, Your
10 Honor?

11 THE COURT: Yes, thank you very much. I
12 appreciate that.

13 MR. WARE: Thank you, Your Honor.

14 Q. (By Mr. Ware) Now, with respect to the extension of
15 the note, was there subsequently another note signed -- by the
16 way, both first notes were with the Aspermont bank. Is that
17 correct?

18 A. That is correct.

19 Q. Was there a subsequent note signed in 1999, one year
20 later -- actually, less than one year later?

21 A. With the Aspermont bank?

22 Q. No, sir. Another ranch note signed with the Hamlin
23 bank.

24 A. With the Hamlin bank, yes, sir.

25 (Petitioner's Exhibit No. 3 marked.)

1 Q. (By Mr. Ware) Now, Mr. Denison, if you would,
2 please, let's compare Petitioner's Exhibits 1, 2, and 3.
3 Okay?

4 A. Okay.

5 Q. Now, the first -- Petitioner's Exhibit 1 was signed
6 in March of 1996 by both of your parents, Ida Baldwin Denison
7 and Billy Wayne Denison. Correct?

8 A. Correct.

9 Q. And it secured -- it was secured by Tract 1, Tract 2,
10 Tract 3, certain acreages on the ranch, approximately two
11 sections. Correct?

12 A. Correct.

13 Q. Then Petitioner's Exhibit No. 2 was an extension loan
14 with the same Aspermont bank extending the loan which was
15 secured by the deed of trust in Petitioner's Exhibit No. 1.
16 Correct?

17 A. Correct.

18 Q. And it -- if you would, check me on this -- is
19 secured by the same land. Here is 1, and you have 2. On the
20 front page.

21 A. Correct.

22 Q. Okay. And along comes, in June of 1999, not even a
23 year later, a loan secured by a deed of trust to the Hamlin
24 bank. Is that correct?

25 A. That's correct.

1 Q. Now, why did you not continue to renew notes at the
2 Aspermont bank?

3 A. I was instructed by the Aspermont bank that they were
4 no longer in favor of renewing that note.

5 Q. And how was it that you were able to secure a note
6 through the Hamlin bank?

7 A. After numerous attempts of financing -- to establish
8 financing at other lending institutions, Hamlin bank was just
9 another bank that we went to to get a loan -- to establish
10 this loan for our livestock and also to pay this additional
11 note here that they were no longer in favor of renewing.

12 Q. At the Aspermont bank?

13 A. At the Aspermont bank.

14 Q. But who helped you secure this note at the Hamli:
15 bank? It was Mr. Castro, wasn't it?

16 A. That helped me secure the note?

17 Q. Yes. He wrote letters, correspondence to the b:
18 didn't he?

19 A. Oh, I'm sure that he did. I'm sure he did.

20 Q. Now, he represents the bank in Hamlin, doesn't he?

21 A. Yes, I believe he does.

22 Q. Okay. Let me get this straight. Mr. Castro helped
23 you obtain a \$550,000 note at the Hamlin bank while he was
24 representing the estate of Ida Baldwin Denison. Is that
25 correct?

1 A. Correct.

2 Q. Mr. Castro represents the bank and he represents the
3 estate. Is that correct?

4 A. Correct.

5 Q. Now, what was different, if anything, about the
6 property that secured the note that is -- and the property
7 which is described in Petitioner's Exhibit 3 compared with 1
8 and 2? You will recall, won't you, that it was two sections
9 in 1 and 2?

10 A. Correct.

11 Q. What's different about 3?

12 A. There is additional property that has been added as
13 security against the loan.

14 Q. Well, the fact is -- correct me if I'm wrong -- it
15 went from two sections to ten sections. Isn't that correct?

16 A. If ten sections is what it indicates here, that's
17 correct.

18 Q. It went from two sections to approximately 6,400
19 acres.

20 A. Correct.

21 Q. Okay.

22 A. Approximately.

23 Q. And the new note was for \$550,000.

24 A. That is correct.

25 Q. Now, did you obtain funding -- was the note funded?

1 Did you get the money?

2 A. Yes, we did.

3 Q. Where did it go?

4 A. The note went to -- for livestock purchases, also to
5 pay the Aspermont bank.

6 Q. Did you notify Bob Denison about making the note for
7 Petitioner's Exhibit No. 2; that is, the first extension note
8 that you signed as independent executor?

9 A. Personally? Did I personally?

10 Q. Yes.

11 A. Is that what you're asking?

12 Q. Did you tell him that you were having to get a new
13 note secured by a deed of trust, Petitioner's Exhibit No. 2?

14 A. Personally, no. Now, what my attorney had done, I
15 don't know.

16 Q. No, but I'm asking --

17 A. I'm not clear.

18 Q. -- did you notify your brother that you --

19 A. Personally, no, I did not.

20 Q. -- that the estate was going to have to borrow more
21 money? You did not?

22 A. Well, I'm going to take that back. I apologize.

23 Q. That's all right.

24 A. At different times my brother and I were meeting in
25 Abilene on different occasions.

1 had asked us to take care of that immediately and establish
2 financing elsewhere.

3 Q. My question --

4 A. And your question -- to answer your question, the
5 exact amount of \$550,000, sir, no. Bob Denison --

6 Q. Did you inform --

7 A. -- Bob Denison --

8 Q. Did you inform Mr. Denison that you had now
9 encumbered the entire ranch, except for little patches of land
10 here and there, that the main body of the ranch was now --

11 A. Encumbered by meaning securing or --

12 Q. That you had used the entire ranch to secure the
13 note.

14 A. No. I was unclear at the time we were discussing
15 this exactly what I would have to do to establish this
16 financing it was going to take to --

17 MR. WARE: Your Honor, I'm going to object to
18 the nonresponsive answer. This is going to take us all day on
19 one witness if we play this game. He knows what I'm asking
20 him, and I would ask the Court to instruct him --

21 THE COURT: I'm sure he's not playing games.
22 And I sure want you to give answers, if you would. If you can
23 answer yes or no, I'd appreciate it.

24 MR. WARE: Thank you, Your Honor.

25 Q. (By Mr. Ware) Did you inform Bob Denison that you

1 had encumbered the entire ranching estate except for a few
2 little patches of land over at Boyd and things like that?

3 A. This, no, sir.

4 Q. Okay. Now, so would you agree with me, then, that in
5 less than two years of you being independent executor, you had
6 gone from the ranch being encumbered as to two sections -- the
7 worst two sections, I might add, of the 6,400 acres. Would
8 you agree with that?

9 A. I don't -- sir, I do not understand your question
10 about the worst two sections. I'm sorry.

11 Q. In terms of grazing, in terms of productivity, the
12 worst two sections of the 6,400 acres were the only sections
13 that encumbered the first note and your extension note,
14 weren't they, or do you know?

15 A. I guess I could agree to that.

16 Q. Okay. You went from that situation to a situation
17 where all of the 6,400 acres were encumbered?

18 A. Yes.

19 Q. All right. Now, with regard to the maturity date of
20 that Petitioner's Exhibit No. 3, when is it due? When is that
21 note -- when does it mature?

22 A. We have a ten-year note from the time that it -- that
23 they made this with a yearly payment. It indicates the final
24 maturity date of June the 10th, 2009.

25 Q. Okay. What are the terms of the repayment of this

1 note, just generally, if you would?

2 A. Just generally we make a yearly payment from the
3 livestock proceeds.

4 Q. How much?

5 A. Sixty-three -- approximately \$63,000, in that range.

6 Q. And when is the next payment due?

7 A. Next payment will be due in June of this year.

8 Q. What is the final payment of the note to be?

9 A. The final payment of the note?

10 Q. Yes, sir.

11 A. The bank had made an agreement with me that is not
12 indicated here.

13 Q. Well --

14 A. And what I would like to say is the final --

15 Q. Excuse me just a second.

16 A. -- it says the final maturity date is June 10, 2009.

17 Q. Right. Let's talk about what is in the document.

18 Okay?

19 A. Uh-huh.

20 Q. What is the final payment to be upon maturity of the
21 note?

22 A. Upon maturity of the note?

23 Q. Right.

24 A. I would need a calculator to figure that, sir.

25 Q. Well, Mr. Denison, do you not know already?

1 A. It should be paid in full.

2 Q. Well, there is a balloon payment, isn't there?

3 A. Yeah, it's supposed to be a five-year balloon.

4 Q. And how much is it?

5 A. The balloon?

6 Q. Yes.

7 A. Sir, I would need a calculator to figure this right
8 here and right now.

9 Q. It's in excess of \$300,000, isn't it, Mr. Denison?

10 MR. STANTON: Your Honor, I'm going to object to
11 him being examined about the details of a note when he doesn't
12 have the note before him. It's just a game of recall as
13 opposed to him having it before him so we can move along
14 faster.

15 THE COURT: If you've got a copy of the note,
16 that probably would be better.

17 MR. STANTON: Your Honor, as opposed to a
18 calculation or calculator and so forth, Mr. Castro has run a
19 loan amortization schedule. If it would be beneficial, we'll
20 be glad to deliver it to opposing counsel, to you, and to the
21 witness.

22 THE COURT: I would sure appreciate it.

23 MR. WARE: Well, we would have, too.

24 THE COURT: Well, he has a copy for you.

25 MR. WARE: Okay. Yeah, but we've been asking