

corner of said lot, conveyed by the said testator to George A. Smith as Trustee-in-Trust for said Church, as per Exhibit No. 30.

III. That property, money, labor and assets of said Church came to the hands of said testator as president and chief officer of said corporation, and Trustee-in-Trust for said Church, for which he, in his lifetime never accounted, nor have his executors, or his estate, since his death, accounted to said beneficiary for the same, other than as hereinbefore mentioned; and which said testator in his lifetime had never appropriated to the use and purposes of his *cestui que trust*; neither have his executors, nor has his estate, since his death, so appropriated the same, and for which said testator was liable, and his executors and estate still remain liable to said beneficiary for over one million dollars, and the same is still due and owing to said plaintiffs over and above all just credits.

IV. These plaintiffs allege that often during his lifetime, and up to the time of his death, said testator publicly and privately proclaimed to members of said Church and beneficiary, that he was charging nothing for his services as president and chief officer of said corporation, nor as Trustee-in-Trust for said Church or otherwise, and that he would receive no compensation, for services rendered to said corporation or to the Church. Wherefore plaintiffs deny that said testator was legally or equitably entitled to any compensation, or credit for such services, and they deny that said corporation, or the Church, or its Trustee-in-Trust, are bound to allow the credit of three hundred thousand dollars for such services, which was placed as a credit on said account for \$999,632.90 by way of compromise, adjustment and settlement as aforesaid; and they object to its allowance, or any part thereof, or any other sum for such services, on the reopening of said accounts between these plaintiffs and said estate, the executors, heirs, etc.

V. But should such general accounting be refused them, then said plaintiffs state and allege that said John Taylor as Trustee-in-Trust for said Church within ten months after the executors qualified made out a statement of account against the estate of said Brigham Young, deceased, from an open, mutual, and current account between said Church and said Testator as its Trustee, which was duly verified, for the sum of nine hundred and ninety-nine thousand and six hundred and thirty-two 90-100 dollars, and then duly presented the same to said executor, who endorsed on said account, in writing, signed by them, their approval and allowance thereof, and on the same day it was also duly presented to the Probate Judge of Salt Lake County aforesaid, all within ten months of said testator's death, and he, by writing, signed by himself, endorsed on said account his approval and allowance thereof; which account, with said various endorsements thereon is made Exhibit No. 5 of this complaint.

And plaintiffs aver that the full amount of said account, after allowing all just and legal credits, was and is due to said Church from the said testator and his estate, for assets and property belonging to said Church, and for rents, incomes, moneys, labor and work which he had received as the President and Chief Officer and Trustee-in-Trust of said corporation, and which he had never appropriated to the purposes, uses and benefits of his said *cestui que trust*, nor in any manner accounted for, or settled with, said beneficiary, and which he owed to, and was individually liable for to said Church corporation and its Trustee-in-Trust at the time of his death, and which indebtedness and liability he directed in his said will should be paid by his executors.

Wherefore plaintiffs pray for and demand orders and judgments as follows:

1st. That some proper person or persons be appointed by the court to defend for the numerous parties, defendants, as heirs, legatees, devisees and beneficiaries under said will, and for such proper orders in relation thereto as will make the preparation and hearing of this case practicable and convenient, and as may be authorized by law or equity.

2nd. That said defendants and particularly the defendants, namely, line A. Young, Ernest Irving Young, Elizabeth Young Ellsworth, and Vilate Y. Decker, heirs, devisees, legatees and beneficiaries under said will, and said W. E. McCornick and M. Shaughnessy receivers appointed by the Judge of the Third Judicial District Court, in and for the Territory of Utah, in the said case of Emeline A. Young, &c. vs. the said executors, John Taylor et al., and each of them be enjoined and restrained from taking possession of the property real and personal, which was conveyed by the said executors of the last will and testament of Brigham Young, deceased, to John Taylor, Trustee-in-Trust for said Church, whether as trust property or in liquidation of said account, and that they be ordered to return to the custody of John Taylor, President and chief officer of said corporation, and Trustee-in-Trust for said Church, all such personal or real estate which he may have turned over to them or either of them under their said order of appointment, or which they or either of them may have received, as rents on real estate, or otherwise, together with all such real estate as they, or either of them, may have taken possession of, whether as the property of plaintiffs or of their vendors aforesaid, and that neither of said defendants nor said receivers be allowed in any manner to interfere with the real or personal property or assets or any part thereof, so as aforesaid received from said executors by said John Taylor, Trustee-in-Trust, until the further order of this court.

3rd. That on a final hearing of this case said settlement and accounting by the executors aforesaid with John Taylor, Trustee-in-Trust for said Church, be upheld and the right and title, and possession of said Trustee-in-Trust for said Church in and to all the property, both real and personal, so conveyed by said executors to said Trustee-in-Trust, be forever quieted, and that defendants and all and every person claiming by, through, or under them, or any of them be forever enjoined and restrained from in any manner setting up any claim thereto, or in any manner disturbing the title or possession of these plaintiffs, and that they be adjudged and decreed to be estopped and forever barred from any claim whatsoever to said property.

4th. That, if this be refused them, an account be taken between these plaintiffs and said executors of said estate, and their said testator, of his transactions, liabilities and administration of the assets and property, real and personal, which came to him as the President and chief officer of said corporation, and as Trustee-in-Trust for said Church, and that a strict account of all the assets and property which came to his hands in such fiducial relations and as Trustee for said corporation and said Church, and which he did not appropriate to the use and benefit of his said *cestui que trust*, and which he failed to account for or to appropriate to said beneficiary's use and benefit, be taken, and when the balance due these plaintiffs be ascertained, that a judgment and decree be rendered therefor, together with such legal and compound interest thereon as may be legal, equitable and right, against said executors and heirs, devisees, legatees and beneficiaries under said will to whom the estate has been distributed and partitioned.

5th. That, if this be refused them, a judgment be rendered against the said executors and the heirs, devisees, legatees and beneficiaries to whom said estate has been distributed, for the amount of said account approved by the executors and allowed and approved by the Probate Judge of said Salt Lake County, April 10, 1878, as aforesaid, for nine hundred and ninety-nine thousand and six hundred and thirty-two dollars and ninety cents, with legal interest thereon from said date of approval, and not subject to the credit of three hundred thousand dollars allowed for the services of said testator to said Church as aforesaid, or any other sum, but that the whole of said account as approved, and allowed by the executors and said probate judge, together with legal interest thereon from the 10th day of April, 1878, be allowed to these plaintiffs, and that a lien upon the property and rights of property conveyed by the executors to said John Taylor, Trustee-in-Trust as aforesaid, in the liquidation of said account be

Marinda Hyde Conrad, Ernest Irving Young, Elizabeth Young Ellsworth, and Vilate Y. Decker, heirs, devisees, legatees and beneficiaries under said testator's last will and testament, and said W. E. McCornick and M. Shaughnessy receivers appointed by the Judge of the Third Judicial District Court, in and for the Territory of Utah, in the said case of Emeline A. Young, &c. vs. the said executors, John Taylor et al., and each of them be enjoined and restrained from taking possession of the property real and personal, which was conveyed by the said executors of the last will and testament of Brigham Young, deceased, to John Taylor, Trustee-in-Trust for said Church, whether as trust property or in liquidation of said account, and that they be ordered to return to the custody of John Taylor, President and chief officer of said corporation, and Trustee-in-Trust for said Church, all such personal or real estate which he may have turned over to them or either of them under their said order of appointment, or which they or either of them may have received, as rents on real estate, or otherwise, together with all such real estate as they, or either of them, may have taken possession of, whether as the property of plaintiffs or of their vendors aforesaid, and that neither of said defendants nor said receivers be allowed in any manner to interfere with the real or personal property or assets or any part thereof, so as aforesaid received from said executors by said John Taylor, Trustee-in-Trust, until the further order of this court.

3rd. That on a final hearing of this case said settlement and accounting by the executors aforesaid with John Taylor, Trustee-in-Trust for said Church, be upheld and the right and title, and possession of said Trustee-in-Trust for said Church in and to all the property, both real and personal, so conveyed by said executors to said Trustee-in-Trust, be forever quieted, and that defendants and all and every person claiming by, through, or under them, or any of them be forever enjoined and restrained from in any manner setting up any claim thereto, or in any manner disturbing the title or possession of these plaintiffs, and that they be adjudged and decreed to be estopped and forever barred from any claim whatsoever to said property.

4th. That, if this be refused them, an account be taken between these plaintiffs and said executors of said estate, and their said testator, of his transactions, liabilities and administration of the assets and property, real and personal, which came to him as the President and chief officer of said corporation, and as Trustee-in-Trust for said Church, and that a strict account of all the assets and property which came to his hands in such fiducial relations and as Trustee for said corporation and said Church, and which he did not appropriate to the use and benefit of his said *cestui que trust*, and which he failed to account for or to appropriate to said beneficiary's use and benefit, be taken, and when the balance due these plaintiffs be ascertained, that a judgment and decree be rendered therefor, together with such legal and compound interest thereon as may be legal, equitable and right, against said executors and heirs, devisees, legatees and beneficiaries under said will to whom the estate has been distributed and partitioned.

5th. That, if this be refused them, a judgment be rendered against the said executors and the heirs, devisees, legatees and beneficiaries to whom said estate has been distributed, for the amount of said account approved by the executors and allowed and approved by the Probate Judge of said Salt Lake County, April 10, 1878, as aforesaid, for nine hundred and ninety-nine thousand and six hundred and thirty-two dollars and ninety cents, with legal interest thereon from said date of approval, and not subject to the credit of three hundred thousand dollars allowed for the services of said testator to said Church as aforesaid, or any other sum, but that the whole of said account as approved, and allowed by the executors and said probate judge, together with legal interest thereon from the 10th day of April, 1878, be allowed to these plaintiffs, and that a lien upon the property and rights of property conveyed by the executors to said John Taylor, Trustee-in-Trust as aforesaid, in the liquidation of said account be

allowed to these plaintiffs, and that a lien upon the property and rights of property conveyed by the executors to said John Taylor, Trustee-in-Trust as aforesaid, in the liquidation of said account be

allowed to these plaintiffs, and that said executors and the heirs, devisees, legatees and beneficiaries under said will, be enjoined and restrained from selling or in any manner disposing thereof, until the final hearing of this case.

6th. That on the final hearing hereof such orders, judgments and decrees be awarded against said executors, heirs, devisees, legatees and beneficiaries under said will, and said receivers, as to the court may seem proper and to equity and law may belong, and that they have their costs both legal and extraordinary, against the said defendants as may be legal, equitable and right.

And these plaintiffs say they are willing to execute such bonds with good sureties, as may be prescribed by the court or judge thereof to indemnify the defendants against all damages by reason of said injunction and restraining order.

RICHARDS & WILLIAMS,
AURELIUS MINER and
W. N. DUSENBERRY,
Attorneys for Plaintiffs.

TERRITORY OF UTAH,
Salt Lake County.

John Taylor, President and Trustee-in-Trust for the Church of Jesus Christ of Latter-day Saints being duly sworn on his oath, says that he is President of the plaintiff, the Church of Jesus Christ of Latter-day Saints, a corporation, and is Trustee-in-Trust for said Church, and as such is one of the plaintiffs in the above entitled action; that he has heard read the foregoing complaint, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes them to be true.

JOHN TAYLOR,
President and Trustee-in-Trust
for the Church of Jesus Christ of
Latter-day Saints.

Subscribed and sworn to before me
this first day of August, A. D.,
1879

[SEAL] JAMES JACK,
Notary Public for Salt Lake
County.

EXHIBIT A.

PRESIDENT BRIGHAM YOUNG'S LAST WILL AND TESTAMENT.

In the name of God, Amen: I, Brigham Young, Sen., of the city of Salt Lake, in the county of Salt Lake, and the Territory of Utah, being of the age of seventy-two years and of sound mind and memory, do make, publish and declare this to be my last will and testament:

1. I direct my funeral expenses and debts to be paid, and for this purpose as well as for the payment of legacies and the full settlement of my estate, I authorize and empower my acting executors, the survivor, or survivors of them, to sell at private or public sale my real estate, and to convey to purchasers a good title therefor in fee simple, without liability on their part; to see to the application of the purchase money, part whereof may be secured by bond and mortgage of the premises sold.

2. I give and bequeath to each of the mothers of my children named in the following classes, twenty-five dollars, or that amount that may be necessary to defray the expenses of the month, to be paid to them within one month after my decease.

3. I give and bequeath to each of the mothers of my children named in the following classes, twenty-five dollars, or that amount that may be necessary to defray the expenses of the month, to be paid to them within one month after my decease.

4. All my estate, real and personal, whatsoever and wheresoever, after payment of all debts and all legacies, and delivery of real estate, devised, given or made either by this will, or any codicil thereto, I give and devise to my executors who shall act under this will, and to the survivors and survivor of them and their heirs, with the power of sale aforesaid, upon the trusts following: In trust, to take and hold the same, and to pay over the net rents and income thereof to and for the use and benefit of the persons named in the following classes, in the manner and proportion and for the periods of time hereinafter expressed, and to make distribution of the principal and proceeds of sale thereof as hereinafter directed, excluding any child or children for said conduct as the mother shall exclude them, as hereinafter provided.

5. Class One shall be: Mary Ann Angell Young, (daughter of James W. and Phebe Morton Angell, deceased), now residing at Salt Lake City, the mother of my following named children, to-wit:

Joseph Angell Young, now aged 39 years; Brigham Young, Jr., now aged 36 years; Alice Young Clawson, now aged 34 years; Luna Young Thatcher, now aged 31 years; John Willard Young, now aged 29 years.

6. Class Two shall be: Lucy Ann Decker Young, (daughter of Isaac and Harriet Decker, late of Salt Lake City, deceased), now residing at Salt Lake City, the mother of my following named children, to-wit:

Heber Young, now aged 28 years; Fanny Caroline Young Thatcher, now aged 24 years; Ernest Irving Young, now aged 22 years; Shamira Young, now aged 20 years; Arta D. Crista Young, now aged 18 years; Feramorz Little Young, now aged 15 years; Clarissa Hamilton Young, now aged 13 years.

7. Class Three shall be: Emeline Free Young, (daughter of Absalom P. and Betsy Free, of Salt Lake City,) now residing at Salt Lake City, the mother of my following named children, to-wit:

Ella Elizabeth Young Empey, now aged 26 years; Marinda Hyde Young Conrad, now aged 24 years; Hyrum Smith Young, now aged 22 years; Emeline A. Young McIntosh; now aged 20 years; Louisa W. Young Ferguson, now aged 19 years; Lorenzo D. Young, now aged 17 years; Alonzo Young, now aged 15 years; Ruth Young, now aged 12 years; Adela Elvira Young, now aged 9 years.

BRIGHAM YOUNG, Sr.

JOSEPH F. SMITH,
D. MCKENZIE,
JAMES JACK.

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8. Class four shall be: Emily D. Partridge Young, (daughter of Edward Partridge, late of Ohio, deceased, and Lydia Partridge, of Salt Lake City,) now residing at Salt Lake City, the mother of my following named children, to-wit:

Emily Augusta Young Clawson, now aged 24 years; Caroline Young Croxall, now aged 22 years; Joseph Don Carlos Young, now aged 18 years; Miriam Young, now aged 16 years; Josephine Young, now aged 13 years.

9. Class five shall be: Clara Decker Young, (daughter of Isaac and Harriet Decker, late of Salt Lake City, deceased), now residing at Salt Lake City, the mother of my following named children, to-wit:

Jennette Richards Young Snell, now aged 23 years; Nabby Howe Young, now aged 21 years; Charlotte Talula Young, now aged 12 years.

10. Class six shall be: Lucy Bigelow Young, (daughter of Nahum Bigelow, late of Davis County, deceased, and Mary Gibbs Bigelow, of St. George), now residing at St. George, Utah Territory, the mother of my following named children, to-wit:

Dora Young Dunford, now aged 21 years; Susa Young Dunford, now aged 17 years; Rhoda Mabel Young, now aged 10 years.

11. Class seven shall be: Eliza Burgess Young, (daughter of James and Betty Burgess, deceased), now residing at Provo City, Utah Territory, the mother of my following named child, to-wit:

Alfades Young, now aged 20 years.

12. Class Eight shall be: Margaret Peirce Young, (daughter of Robert Peirce, of Salt Lake City, and Hannah Pierce, deceased), now residing at Salt Lake City, the mother of my following named child, to-wit:

Brigham Morris Young, now aged 19 years.

13. Class Nine shall be: Zina D. Huntington Young, (daughter of William and Zina Baker Huntington, deceased), now residing at Salt Lake City, the mother of my following named child, to-wit:

Zina P. Young Williams, now aged 23 years.

14. Class Ten shall be: Harriet E. Cook Young, (daughter of Archibald Cook Campbell, deceased, and Elizabeth M. Campbell, of Squoilt, Oneida County, New York,) now residing at Salt Lake City, the mother of my following named child, to-wit:

Oscar Brigham Young, now aged 27 years.

15. Class Eleven shall be: Harriet Barney Young, (daughter of Royal and Sarah Bowen Barney, of Salt Lake City), now residing at Salt Lake City, the mother of my following named child, to-wit:

Phineas Howe Young, now aged 11 years.

16. Class Twelve shall be: Mary Van Cott Young, (daughter of John and Lucy Lavinia Van Cott, of Salt Lake City), now residing at

Salt Lake City, the mother of my following named child, to-wit:

Fanny Van Cott Young, now aged 3 years.

17. Class Thirteen shall be: Susannah Snively Young, (daughter of Henry and Mary Snively, late of Pennsylvania, deceased), now residing at Salt Lake City, and my following named adopted child, to-wit:

Julia Young, now aged 20 years.

BRIGHAM YOUNG, SR.
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JAMES JACK.

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18. Class Fourteen shall be: My daughters Elizabeth Young Ellsworth, now aged 48 years, and Vilate Young Decker, now aged 43 years, being the children of Miriam Works Young, deceased.

19. Class Fifteen shall be: My daughter Mary E. Young Croxall, deceased, represented by her children, Mary Eliza and Willard Croxall, aged respectively seven and five years; my daughter Maria Young Dougal, now aged 23 years; my son Willard Young, now aged 21 years, and my daughter Phebe Young Beattie, now aged 19 years, being the children of Clara Ross Young, deceased.

20. Class Sixteen shall be: My daughter Evaline L. Young Davis, now aged 23 years, and my son Mahouri Moriamcumer Young, now aged 21 years, being the children of Margaret Alley Young, deceased.

21. Class Seventeen shall be the following named persons, to-wit:

Eliza R. Snow Young, now aged 69 years; Naama K. J. C. Twiss Young, now aged 52 years; Martha Bowker Young, now aged 51 years.

And my executors shall pay to each of them, during the term of their natural lives, from any rents or income accruing from my estate, such a sum annually, payable in monthly instalments as may be necessary for their comfortable support, and as shall be in proportion to the amounts paid to other individual members of my family; and they, together with Clara Decker Young, Harriet Cook Young, Susannah Snively Young, Eliza Burgess Young, and Margaret Peirce Young, shall have my dwelling known as the Lion House, situate on Lot two (2), in Block eighty-eight (88), Plat A, Salt Lake City Survey, as their place of residence during their natural lives.

22. Class Eighteen shall be: Harriet Amelia Folsom Young, now aged 35 years, to whom my executors shall pay, during the term of her natural life, from any rents or income accruing from my estate, such a sum annually, payable in monthly instalments, as may be necessary for her comfortable support; and as shall be in proportion to the amounts paid to other individual members of my family, and she, with Mary Ann Angell Young, shall have a residence during their natural lives in my dwelling known as the Gardo House, situate on Lot six (6), in Block seventy-five (75), Plat A, Salt Lake City Survey.

23. Class Nineteen shall be: Augusta Adams Young, now aged 70 years, to whom my executors shall pay, during the term of her natural life, from any rents or income accruing from my estate, such a sum annually, payable in monthly instalments, as may be necessary for her comfortable support, and as shall be in proportion to the amounts paid to other individual members of my family.

24. The division of such shares of rents and income, shall be apportioned and paid to each class in the proportion the number of mothers and children in each class, shall bear to the whole number in all the classes, and any child born to either mother within nine months after my decease shall be taken to be one of her class and have all the share and rights of a child born in my lifetime; and as the number of each class shall be at the commencement of each year; so shall the apportionment be; but a mother or children married shall cease on marriage to have any share of rents and income, and the earnings of minors shall go to increase the share of their class; and, also, the earnings of children of lawful age, who shall continue to live with their class at the homestead, shall contribute ratably to the common support; otherwise they shall cease to have a right to reside in the homestead and to share the income.

BRIGHAM YOUNG, SR.

JOSEPH F. SMITH,
D. MCKENZIE,
JAMES JACK.

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