

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

In the Matter of
FISK UNIVERSITY,
Petitioner.

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No. 05-2994-III

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**BRIEF OF ATTORNEY GENERAL AND REPORTER FOR THE STATE OF
TENNESSEE IN OPPOSITION TO FISK UNIVERSITY'S PROPOSAL FOR THE
DISPLAY AND MAINTENANCE OF THE ALFRED STIEGLITZ COLLECTION**

The Attorney General and Reporter for the State of Tennessee hereby submits this response in opposition to Fisk University's proposal for the display and maintenance of the Alfred Stieglitz Collection.

Fisk has submitted a modified sale and joint ownership agreement between Fisk and the Crystal Bridges Museum which it claims addresses all the Court's concerns and, therefore, should be approved.¹ Specifically, Fisk claims that it has addressed this Court's concerns regarding Fisk and Nashville losing their interest in the Collection by eliminating the secured

¹Fisk characterizes this agreement as a "sharing arrangement." Such characterization is clearly misleading. None of the proposed documents between Fisk and Crystal Bridges describe the arrangement as a "sharing arrangement." Rather, the Amended and Restated Purchase and Sale Agreement specifically states that the "Seller wishes to sell an undivided fifty percent (50%) interest in the Collection (the "Transferred Interest") to the Purchaser, and the Purchaser wishes to purchase the Transferred Interest from the Seller for the purchase price hereinafter specified." The Amended and Restated Purchase and Sale Agreement further states that the "Seller hereby agrees to sell, transfer, convey and assign the Transferred Interest, free and clear of all liens, encumbrances, security interests and adverse claims except as set forth herein." *Id.* at ¶ 2. Finally, the Amended and Restated Sale and Purchase Agreement states that "[o]n the Closing Date, subject to the Purchaser's payment of the Purchase Price, the Seller shall transfer to the Purchaser good, valid and marketable title to the Transferred Interest and all other property rights or interests therein of whatever kinds and whatever situated." *Id.* at ¶ 4(vi).

loan provision (paragraph 12), the Delaware LLC provision (paragraph 15), and the arbitration/mediation provision (paragraphs 17 and 20) and by requiring court approval for any transfer of interest by Fisk or Crystal Bridges (paragraph 14).

In fact, there is no way in which Fisk can modify its agreements with the Crystal Bridges Museum to protect the Collection from potential creditors (including the Museum²) in the event of financial distress. In order to lift the no-sale condition and approve the Crystal Bridges agreement, this Court must find that Georgia O’Keeffe gave the Collection to Fisk to ensure the university’s continued financial existence. Such a holding, however, would irrevocably change the character of the gift and remove the protected status which the Collection now enjoys from creditors, particularly in any bankruptcy proceedings involving Fisk.

As a restricted charitable gift, the Collection currently is exempt from claims on Fisk’s assets, and its disposition is subject only to the *cy pres* power of this Court. But once a state court has held that the Collection was given to Fisk to support the university’s financial health (a holding which by its nature must apply to the entire Collection), thereby removing the gift’s restricted status, any interest that Fisk retains in the Collection becomes fair game for Fisk’s creditors.

In short, Fisk cannot have it both ways. Either the entire gift is available for Fisk’s financial benefit and therefore subject to the claims of creditors (or subsequent sale by Fisk), or it is not; Ms. O’Keeffe could not have donated only half of the Collection for such a purpose. Approving the Crystal Bridges Museum sale will not bring finality to the status of the Collection.

²Even as modified, the agreements obligate Fisk to pay significant new costs that Fisk cannot afford. As these costs will by necessity be paid by Crystal Bridges Museum, the Museum will quickly become one of Fisk’s major creditors, as discussed *infra*.

Rather, it will create a permanent cloud over the art's status and ensure future legal disputes, likely in multiple courts.

Georgia O'Keeffe never intended any of this to occur. To void the no-sale restriction and allow this sale to proceed would be a clear breach of Ms. O'Keeffe's intent and an abuse of cy pres law. And while Fisk offered no credible proof that the sale would resolve the university's serious financial problems,³ there is little doubt that the sale would ultimately result in the Collection being lost to Nashville forever. The Attorney General urges this Court to enforce the clear donor's intent in this case and reject the Crystal Bridges Museum sale.

I. Approval of the Modified Sale and Joint Ownership Agreements With Crystal Bridges Museum Will Convert the Stieglitz Collection into a Financial Asset of Fisk and Remove Any Protections From Bankruptcy That Currently Exists.

In its brief, Fisk has asserted that the "most likely result" of the Attorney General's proposal for the display and maintenance of the Stieglitz Collection at an alternative location would be "litigation between the Attorney General, claiming title on behalf of the State, and the bankruptcy trustee or the creditors claiming the Collection to satisfy Fisk's debts."⁴ In actuality, it is the modified sale and joint ownership agreement with Crystal Bridges Museum – and the findings that this Court must make in order to lift the no-sale restriction and to approve those agreements – that will lead to the bankruptcy trustee or creditors of Fisk claiming Fisk's

³In fact, according to the un rebutted testimony of President O'Leary, the \$30 million realized from the sale of a 50% interest in the Collection to the Crystal Bridges Museum will not solve its financial problems. Rather, President O'Leary testified that Fisk needs approximately \$150 million to solve its financial problems and that the \$30 million would, at best, serve as a spring board for a much larger fundraising effort that would hopefully yield \$150 million. Fisk provided no proof that Fisk has ever been able to mount a professional fundraising campaign that has accomplished such an ambitious goal.

⁴Fisk Supplemental Brief at p. 10. Additionally, this Court in its order of September 20, 2010, also raised the issue of Fisk's bankruptcy, stating that "[i]f the Attorney General believes that the State of Tennessee must play a role under the Crystal Bridges Agreement under circumstances such as a Fisk bankruptcy or other events, the Attorney General must propose that in his briefing." September 20 Memorandum at p. 2-3.

remaining interest in the Collection to satisfy Fisk's debts.⁵ Conversely, the Attorney General's proposal will not only ensure that the Collection will remain permanently in Nashville, but will also ensure that the Collection is protected from Fisk's creditors in the event of bankruptcy or other insolvency proceeding.⁶

Pursuant to the Bankruptcy Code, the filing of a bankruptcy petition creates an estate comprised of all the property enumerated under § 541 of the U.S. Bankruptcy Code, wherever located and by whomever held, including "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). It does not include, however, "any power that the debtor may exercise solely for the benefit of another," 11 U.S.C. § 541(b)(1), nor does it include "[p]roperty in which the debtor holds . . . only legal title and not an equitable interest." 11 U.S.C. § 541(d). Similarly, the estate does not include property containing "[a] restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law." 11 U.S.C. § 541(c)(2). Therefore, "something held in trust by a debtor for another is neither property of the bankruptcy estate under section 541(d), nor property of the debtor" for purposes of avoidance actions.⁷

⁵Needless to say, the \$30 million proceeds that Fisk would received from the sale will also be subject to creditors' claims.

⁶The Attorney General has consistently asserted that Ms. O'Keeffe's charitable intent does not include the conversion of the Stieglitz Collection into an financial asset of the University available to ensure its continued existence. As such, the Attorney General has objected and continues to object to any lifting of the "no sale" condition to allow Fisk to sell a 50% interest in the Stieglitz Collection to the Crystal Bridges Museum as urged by Fisk as it would be a frustration of Ms. O'Keeffe's clear intent and an abuse of *cy pres* law. To that extent, the Attorney General incorporates by reference all previous pleadings, authorities and evidence presented to or filed with this Court in support of the Attorney General's position.

⁷*Mitsui Mfrs. Bank v. Unicom Computer Corp. (In re Unicom Computer Corp.)*, 13 F.3d 321, 324 (9th Cir. 1994), citing *Begier v. I.R.S.*, 496 U.S. 53, 58 (1990) (property that a debtor holds in trust for another is not property of the estate under section 541 nor is its "property of the debtor" under section 547).

Although bankruptcy law defines what constitutes property of the bankruptcy estate, the U.S. Supreme Court has held that “[p]roperty interests are created and defined by state law.”⁸ Courts have found that donor-restricted gifts are held in actual or constructive trust by the donor and consequently concluded that such restricted charitable gifts are not property of the bankruptcy estate.⁹ Thus, if donor-restricted gifts are not assets of the bankruptcy estate, they may only be used for their dedicated charitable purposes, and the debtor (trustee) may only transfer such property in accordance with applicable state laws governing the transfer of property by nonprofits.¹⁰ More importantly, any such restricted charitable gifts may not be used or administered for the benefit of creditors of the bankrupt debtor.¹¹

New York law has long recognized that charitable gifts to nonprofit corporations, “being for public purposes, are impressed with a public trust imposed by the charter of each particular entity even if no express trust was created by the donor.”¹² Here, the Stieglitz Collection is not

⁸*Butner v. U.S.* 440 U.S. 48, 55 (1979); *Barnhill v. Johnson*, 503 U.S. 393, 398 (1992).

⁹*See, e.g., In re Joliet-Will County Community Action Agency*, 847 F.2d 430 (7th Cir. 1988) (holding that federal and state agency grants to nonprofit community organizations that impose restrictions on the grants’ use were made to the organization as a trustee, such that the debtor lacked beneficial title to the funds and hence they were not property of the estate); *Parkview Hospital v. St. Vincent Medical Center*, 211 B.R. 619 (N.D. Ohio 1997) (debtor hospital’s contributors manifested an intent that the hospital’s development fund would be used for specific charitable purposes, supporting a finding of an express charitable trust that removed the funds from the chapter 11 estate); *Hobbs v. Board of Educ. of Northern Baptist Convention*, 253 N.W. 627 (Neb. 1934) (finding that donations made directly to college with conditions attached or for particular object or purpose constituted a charitable trust and not subject to claims of creditors).

¹⁰*See, e.g., 11 U.S.C. §363(d)(1); see also Integrated Solutions, Inc. v. Service Support Specialties, Inc.*, 124 F.3d 487, 493 (3rd Cir. 1997); *In re Schauer*, 835 F.2d 1222, 1225 (8th Cir. 1987) (trustee’s power to transfer property of bankruptcy estate could be restricted by Minnesota property law); *In re Bishop College*, 151 B.R. 394 (N.D. Tex. 1993) (the bankruptcy estate receives assets “subject to any restrictions imposed by state law”).

¹¹*See, e.g., In re Bishop College*, 151 B.R. 394 (N.D. Tex. 1993); *Hobbs v. Board of Educ. of Northern Baptist Convention*, 253 N.W. 627 (Neb. 1934).

¹²*Matter of Kraetzer’s Will*, 462 N.Y.S.2d 1009, 1012 (N.Y.Sur. 1983) (citations omitted). The Attorney General recognizes that in a previous order, now vacated, this Court held that the Stieglitz Collection was a charitable gift subject to conditions, rather than a charitable trust. However, for purposes of New York *cy pres* law, there is no distinction between a restricted charitable gift and a charitable trust. *See* EPTL 8-1-1(c). It would further

only a charitable gift to a non-profit corporation, it is a restricted charitable gift that was intended by Georgia O'Keeffe to be made available to the public in Nashville and the South to promote the study of art. Thus, under applicable state law, the Stieglitz Collection is considered to be held in a constructive trust by Fisk University and would not be considered part of the bankruptcy estate if Fisk were to file bankruptcy. Keeping the Collection on campus or moving it to an alternative site in Nashville, in accordance with the alternatives for the display and maintenance of the Stieglitz Collection identified by the Attorney General for this Court, ensures that the Collection remains a restricted charitable gift permanently available to Nashville and the South to promote the study of art. Contrary to Fisk's assertions, the Attorney General's alternatives maintain the Collection's status and protect it from Fisk's creditors in the event of bankruptcy or other insolvency proceeding.

On the other hand, approval of the modified Sale and Joint Ownership Agreements with Crystal Bridges Museum would irreversibly change the fundamental nature of the Stieglitz Collection, converting it from a restricted charitable gift into an unrestricted asset for the benefit of Fisk University. New York courts have uniformly held that the intention of a donor in making a general charitable gift to a nonprofit corporation should be presumed to be in furtherance of the entity's charitable purpose (making the gift susceptible to *cy pres* relief), rather than for the gift to be used by a bankrupt nonprofit to satisfy its creditors' claims.¹³ This legal presumption protecting a charitable gift from creditors' claims presumably is even stronger when that charitable gift is restricted, as here. However, in order to remove the no-sale restriction and

appear that New York courts have recognized that there is no distinction between a restricted charitable gift and a charitable trust for bankruptcy purposes. See *In Matter of Will of Coffey*, 590 N.Y.S.2d 357 (1992).

¹³*Matter of Kraetzer's Will*, 462 N.Y.S.2d at 1013-1014 (citations omitted) (Based upon this presumption, court rejected the bankruptcy trustee's argument that charitable gift to bankrupt hospital should be available to satisfy the bankrupt hospital's obligations to its creditors and instead directed, under the *cy pres* power, that the gift be applied to a similar charitable use.)

allow Fisk to sell a 50% interest in the Collection to the Crystal Bridges Museum, this Court must overrule that presumption and instead find that, in giving the Collection to Fisk, Georgia O’Keeffe also intended to ensure the continued existence and operation of Fisk, *i.e.*, “reducing Fisk’s ownership in the Collection to a half in order to keep Fisk afloat is in keeping with the donor’s intent”.¹⁴

Such a finding that the donor intended the Stieglitz Collection to be an asset available to help keep Fisk in existence would then established the precedent that, not only are the proceeds from a sale of a 50% interest in the Collection available to satisfy the claims of Fisk’s creditors, but Fisk’s remaining 50% interest is also available.¹⁵ Furthermore, it is reasonably foreseeable that, in the event of bankruptcy, Fisk or some other party-in-interest will argue applicable state law has already determined that the Collection is intended to help keep Fisk in existence and, therefore, that Fisk’s remaining 50% interest in the Collection is part of the bankruptcy estate and should be sold in a manner that maximizes the likelihood of supporting the existence of Fisk.

Thus, contrary to Fisk’s assertions, approval of the modified agreement with the Crystal Bridges Museum, thereby converting the Collection into an asset available to help keep Fisk afloat, would remove the protections the Collection currently has from Fisk’s creditors and would expose both the proceeds from the sale and Fisk’s remaining 50% interest in the Collection to the claims of its creditors.¹⁶

¹⁴ September 14, 2010 Memorandum at p. 5.

¹⁵ *See, e.g., In Boston Regional Medical Center, Inc.*, 298 B.R. 1, 29-30 (D. Mass. 2003) (bankruptcy court held that application of charitable gift towards diminution of bankruptcy non-profit’s debts would have effect of furthering testator’s intended charitable purpose).

¹⁶ In the event of Fisk’s bankruptcy or other insolvency proceeding, the Attorney General will of course assert the interests of the citizens of Tennessee in the Collection’s remaining in Nashville. That job, however, will be made much more difficult if this Court has removed the no-sale restriction and approved the modified agreement with the Crystal Bridges Museum.

II. Approval of the Modified Joint Ownership Agreement With Crystal Bridges Museum Creates An Executory Contract That Will Lead to Transfer of the Collection to Crystal Bridges at a Substantial Discount.

An executory contract is “[a] contract that remains wholly unperformed or for which there remains something still to be done on both sides[.]”¹⁷ The modified Joint Ownership Agreement is clearly an executory contract, as it requires ongoing obligations for both Crystal Bridges Museum and Fisk University in perpetuity. In bankruptcy, pursuant to § 365(b), a debtor must either reject or assume executory contracts. To assume an executory contract, pursuant to § 365(b)(1)(A)-(C), a debtor must do three things: (1) cure, or provide adequate assurances of an imminent cure, any default of the contract; (2) compensate, or provide adequate reassurances of the imminent compensation of, the non-debtor party to the contract for any past default; and (3) provide adequate assurance of future performance of the executory contract.

If Fisk enters bankruptcy, it is reasonable to assume that it is the result of financial distress that has caused Fisk to default upon its obligations, including its obligations under the modified Joint Ownership Agreement, particularly as to the cost of care and maintenance of the Collection. In fact, in all likelihood, Fisk will have defaulted upon these obligations long before seeking bankruptcy protection. It is further reasonable to assume that during this time period, Crystal Bridges, in order to protect its \$30 million investment, will assume the total costs of care, maintenance, insurance and display of the Collection. Thus, by the time Fisk actually seeks bankruptcy protection, it will have accrued significant financial obligations to the Crystal Bridges Museum.

In this scenario, while bankruptcy law technically allows the debtor the choice of whether to assume or reject an executory contract, Fisk will have no choice at all. Clearly, it will not be in a position to cure the default (i.e., spend the money required for the care, maintenance,

¹⁷*Black's Law Dictionary*, “contract” at p. 344 (8th ed. 2004).

insurance and display of the Collection); it will not be able to compensate Crystal Bridges for the default (i.e., pay the accrued costs); and it will not be able to provide assurances of its ability to perform these obligations in the future.

Thus, in reality, the bankruptcy court will have to decide what should happen with Fisk's 50% interest and the Collection as a whole. Given that Fisk's inability to pay for the care of the Collection will most certainly be part of the reason for the bankruptcy proceeding, it is likely that the bankruptcy court will find that the Collection should remain at Crystal Bridges 100% of the time, pending resolution of the bankruptcy in order to preserve the value of the Collection. Then, for the reasons discussed in the previous section, the most likely resolution by the bankruptcy court will be an order to sell Fisk's remaining interest in the Collection pursuant to § 363 of the Bankruptcy Code in order to satisfy Fisk's creditors, including the Crystal Bridges Museum. Furthermore, given the amount of costs Fisk will have accrued by that time, it is quite likely that Crystal Bridges will obtain Fisk's remaining interest in the Collection in satisfaction of its claim.

III. The Modified Joint Ownership Agreement Between Fisk University and the Crystal Bridges Museum Is Illegal Under *Cy Pres* law and Will Still Lead to the Loss of the Stieglitz Collection By Fisk and Nashville.

As previously discussed, Fisk claims that it has addressed this Court's concerns regarding Fisk and Nashville losing their interest in the Collection by modifying certain provisions of the Sale and Purchase Agreement and Joint Ownership Agreement. While these modifications *may* address the concerns specifically identified by this Court, they still do not eliminate the very real possibility of Fisk and Nashville losing the Stieglitz Collection under other provisions of the Joint Ownership Agreement.

For example, Fisk has claimed that it is simply not feasible to propose a rotation schedule several years in advance, and so it has only proposed a rotation schedule for the next seven years, *i.e.*, through the summer of 2017. After that time, Fisk asserts it is the parties' intention that the Collection be rotated between the institutions every two years, "unless the Collection Committee decides otherwise for good reason." However, the Joint Ownership Agreement does not contain any such provision. Instead, Paragraph 6(a) of the Agreement states as follows:

- (a) The Collection Committee shall determine, on the basis of the best interests of the Collection (including each and every work therein) and best industry practices, a rotation schedule under which Fisk and Crystal Bridges shall enjoy the right to possess, use and display the Collection on an equal (50/50) basis, so that, on a cumulative basis, the Collection is for half the time at Fisk and for half the time at Crystal Bridges; it is currently contemplated that the Collection will be at Fisk from September 2010 through the Summer of 2013, at Crystal Bridges from the Fall of 2013 through the Summer of 2015, and at Fisk from the Fall of 2015 through the Summer of 2017.

Thus, contrary to Fisk's claims, there is nothing in the Joint Ownership Agreement reflecting the parties' intent that the Collection be rotated between the institutions every two years. Rather, it is left solely to the discretion of the Collection Committee to determine the rotation schedule after 2017, based on the "best interests of the Collection" and "best industry practices." This broad discretion vested in the Collection Committee becomes even more significant in light of the provisions of Paragraph 7 of the Agreement. That paragraph provides that

[p]ursuant to and subject to any guidelines and policies established by the Collection Committee, the parties hereto shall handle and manage the Collection in accordance with the highest standards and best industry practices, and shall generally adhere to the AAM guidelines or other appropriate guidelines with regard to the care, treatment, handling, security, installation, exhibitions, special events and storage of the Collection. *The party in*

possession of the Collection shall bear all costs associated with such precautions and measures while in possession of the Collection. (emphasis added).

Paragraph 7(c) further provides that the

cost of any conservation, restoration, cleaning, repairs or similar maintenance approved by the Collection Committee and consented to by the parties hereto, shall be shared by the parties on an equal basis. Notwithstanding the foregoing, in the event that the Collection or any piece thereof suffers damages through the gross negligence of any one party, then all costs of conservation, restoration, cleaning, repairs or similar maintenance resulting therefrom shall be borne by that party alone, to the extent not covered by insurance. (emphasis added).¹⁸

These guidelines and policies established by the Collection Committee in accordance with the highest standards and best industry practices will almost certainly increase the cost of care, treatment, handling, security, installation, exhibitions and storage of the Collection beyond the \$131,000 currently spent by Fisk. This Court has already found that such an increase in costs is not affordable by a struggling university on the brink of closing and could lead to a breach of the Joint Ownership Agreement by Fisk and ultimately complete divestiture of the Collection.¹⁹ The Joint Ownership Agreement, however, is completely silent regarding the available remedies for a breach of that agreement, such as Fisk's failure to pay its share of the costs for the care and treatment of the Collection.

In the original Joint Ownership Agreement, the Crystal Bridges Museum's \$30 million investment in the Collection was protected against Fisk's inability to pay its share of costs for the care and display of the Collection through the secured loans provisions (paragraph 12). That provision, this court found, could over time result in Crystal Bridges obtaining full title and

¹⁸ Paragraph 12 of the Agreement requires the parties to jointly purchase and maintain risk "wall-to-wall" fine arts insurance coverage for the Collection at all times with the cost to be borne 50% percent by each of the parties, except that Crystal Bridges shall approve the insurance carrier with whom any such policy is written.

¹⁹ Memorandum and Order of August 20, 2010, at p. 14.

ownership in the Stieglitz Collection, particularly considering Fisk's financial circumstances.²⁰ It would be short-sighted to assume that now because the secured loan provision has been removed from the Joint Ownership Agreement, the Crystal Bridges Museum has not ensured that its interest in the Collection is fully protected against Fisk's inability to pay. Such protection can be found in the broad discretion vested in the Collection Committee to decide what is in the best interests of the Collection, including any "rotation" schedule in the future. Given the findings of this Court that Fisk is a struggling university on the brink of closure and that it cannot afford costs in excess of the \$131,000 it currently spends annually for the care and display of the Collection, it is reasonable to envision a scenario where the Collection Committee determines, in its sole discretion, that it is in the best interests of the Collection for the art to remain at the Crystal Bridges Museum until Fisk can afford to pay its share of the costs.²¹ Moreover, in such circumstances, Fisk is unlikely to seek return of the Collection – unless, of course, it is seeking approval to sell its remaining 50% interest in the Collection.

Thus, even with the modifications detailed by the Court, the Joint Ownership Agreement still has the very real potential to divest Fisk of more than a 50% ownership in the Collection, particularly in light of the evidence in the record and this Court's findings concerning Fisk's financial condition. Such divestiture would completely thwart Ms. O'Keeffe's intention by eliminating any Nashville connection to the Collection, as well as eliminating display of the Collection at Fisk University.²² Consequently, the modified Joint Ownership Agreement still

²⁰ *Id.* at p. 13.

²¹ Similarly, the Collection Committee could decide that it is in the best interest of the Collection to remain in Arkansas if Fisk refuses to consent to any cleaning, conservation or other restoration work that the Collection Committee decides is needed.

²² An argument could also be made that the modified Joint Ownership Agreement is simply "hypothetical" in that the Crystal Bridges Museum, which was originally scheduled to open in 2009, is not yet open and there is no

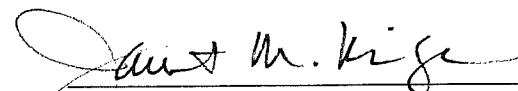
does not “most closely approximate Ms. O’Keeffe’s charitable intent” and, therefore, is not permissible under *New York cy pres* law.

CONCLUSION

Regardless of how Fisk characterizes its proposal or dresses it up with the proposed modifications, the bottom line is that the modified Sale and Joint Ownership Agreements with Crystal Bridges still ultimately lead to the loss of the Stieglitz Collection not just by Fisk, but by Nashville and the very community of persons for whom Georgia O’Keeffe sought to make the Collection available. Such a result would be a frustration of Ms. O’Keeffe’s clear intent and an abuse of *cy pres* law. Georgia O’Keeffe required, and Fisk agreed, that the Collection would never be sold. Accordingly, the Attorney General respectfully requests that this Court find that Fisk’s proposal for the display and maintenance of the Stieglitz Collection does not most closely approximate Georgia O’Keeffe’s intent and reject such proposal as prohibited by *cy pres* law.

Respectfully submitted,

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evidence in the record as to when the Museum will in fact open. Furthermore, neither the modified Purchase and Sale Agreement nor the modified Joint Ownership Agreement has been executed by the Crystal Bridges Museum.


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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Supplemental Brief has been sent by electronic transmission and by first class U.S. Mail, postage prepaid, to:

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