

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE:

Docket No. 6469 of 2014

TRUST UNDER DEED OF TRUST
UNDER SARAH MELLON SCAIFE,
SETTLOR, DATED DECEMBER 30, 1935

**PETITION FOR CITATION TO COMPEL
RECORDING OF A TRUST AGREEMENT AND
FILING OF AN ACCOUNT**

Filed on behalf of Petitioner:
JENNIE SCAIFE

Counsel of Record for this Party:

CHARLES J. AVALLI, ESQUIRE
PA I.D. # 34284

JULIA WU, ESQUIRE
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ALLEGHENY COUNTY PA

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AND NOW COMES, Jennie Scaife, ("Petitioner"), by and through her attorneys, Charles J. Avalli, Esquire, Julia Wu, Esquire, and Gentile, Horoho & Avalli, P.C. and respectfully files the within *PETITION FOR CITATION TO COMPEL THE RECORDING OF A TRUST AGREEMENT AND FILING OF AN ACCOUNT* and, in support thereof, respectfully avers as follows:

I. THE PARTIES

1. Petitioner Jennie Scaife ("Jennie") is a resident of Palm Beach, Florida.
2. Respondent James M. Walton ("Walton"), whose address is 525 William Penn Place, Room 3102, Pittsburgh, PA 15219, is currently an individual trustee of the trust that is the object of this pleading.
3. Respondent H. Yale Gutnick, Esquire ("Gutnick"), whose address is Four Gateway Center, Suite 2200, 444 Liberty Avenue, Pittsburgh, PA 15222, is currently an individual trustee of the trust that is the object of this pleading.
4. Respondent PNC Bank, National Association ("PNC"), has an address of One

PNC Plaza, 249 Fifth Avenue, Pittsburgh, PA 15219, is currently the corporate trustee of the trust that is the object of this pleading.

5. Collectively, Respondents Walton, Gutnick and PNC are referred to as the "Trustees."

6. Sarah Mellon Scaife was the grandmother of Jennie. Sarah Mellon Scaife had two children, Richard Mellon Scaife and Cordelia Scaife May. Richard Mellon Scaife had two children, Jennie, Petitioner herein, and David N. Scaife ("David").

II. JURISDICTION AND VENUE

7. Jurisdiction in this Court is mandatory pursuant to 20 Pa. C.S.A. §711.

8. It is believed and therefore averred that no other county in Pennsylvania has previously exercised venue of this Trust.

9. Venue is proper in Allegheny County pursuant to 20 Pa. C.S.A. §722 and §7708 as the Respondents reside and/or have a principal place of business in Allegheny County and Allegheny County has been the principal place of the trust's administration.

III. BACKGROUND

10. The trust that is the subject of this action was created on December 30, 1935 by Petitioner Jennie Scaife's grandmother Sarah Mellon Scaife, ("1935 Trust"). A true and correct copy of that trust, previously provided by the Trustees, is attached hereto as Exhibit A.

11. Jennie discovered only after her father's death in July 2014, that she and her brother David are remaindermen beneficiaries to the 1935 Trust. Prior thereto, she had no knowledge of the trust, the consumption of it by her father, Richard Mellon Scaife, as set forth below and received no communications of any type from the Trustees, all of whom at all relevant times knew of her and her interest in the 1935 Trust.

12. The initial Trustees of the 1935 Trust were Richard K. Mellon, Alan M. Scaife and the Union Trust Company of Pittsburgh.

13. Sarah Mellon Scaife, the Grantor of the 1935 Trust, died in 1965.

14. Over the years, the trustees of the 1935 Trust have changed. The trustees of the 1935 Trust are the aforementioned Walton, Gutnick and PNC.

15. Richard Mellon Scaife, the son of Sarah Mellon Scaife, was born on July 3, 1932 and died on July 4, 2014.

16. The distributive provisions of the 1935 Trust after Richard Mellon Scaife reached the age of 25 years on July 3, 1957, provide that income is to be distributed as follows:

"All income received by the Trustees after the expiration of said period of income accumulation shall be distributed quarter-yearly, or at such other regular periods as the Trustees from time to time shall find convenient, as follows:

(a) To my said son, if living, during the remainder of his life."

17. The distributive provisions of the 1935 Trust after Richard Mellon Scaife reached the age of 25 on July 3, 1957 provide that principal may be distributed as follows:

"I desire to make adequate provision for any eventuality affecting the welfare of my son, Richard Mellon Scaife, which may occur during his life and, therefore, I direct that, notwithstanding any of the other provisions of this instrument, the Trustees, if, as, whenever and as often as they shall deem that the best interests of my said son shall require or make advisable further or additional provision to be made for him, shall have the power and authority -

(c) To distribute to my said son, as his absolute property, all or such portion of the corpus of the Trust Estate as the Trustees shall deem to be for his best interests, and if, as and when the entire corpus of the Trust Estate may be so distributed to my said son, this trust shall terminate notwithstanding that the time of termination specified in Article 3 hereof may not yet have arrived."

18. In addition to the above-described interest in the 1935 Trust, Richard Mellon Scaife was an income and principal beneficiary of three other trusts, all created by Sarah Mellon Scaife, which trusts herein are referenced as 1958 Trust; 1961 Trust; and 1965 Trust. In addition Richard Mellon Scaife was the beneficiary of a Charitable Remainder Unitrust and a Revocable Trust, both of which he created.

19. In October of 2005, the various trusts of which Richard was a beneficiary of income and/or principal had an approximate value of \$1,400,000,000, as set forth below:

- (a) 1935 Trust: \$210,000,000
- (b) 1958 Trust: \$259,000,000
- (c) 1961 Trust: \$92,000,000
- (d) 1965 Trust: \$26,000,000
- (e) Charitable Remainder Unitrust: \$140,000,000

(f) Revocable Trust: \$655,000,000

20. Richard Mellon Scaife was the sole beneficiary to ever receive distributions from any of the trusts described in paragraph 18 and 19 hereof, including the 1935 Trust.

21. Subsequent to the death of Richard Mellon Scaife, Petitioner has learned that substantial amounts of the 1935 Trust have been distributed by the Trustees to Richard Mellon Scaife to subsidize his operation of his Tribune Review newspaper enterprise, such that as of the July 4, 2014 death of Richard Mellon Scaife, the 1935 Trust held no assets. From 2000 to 2004 Richard Mellon Scaife infused \$130,000,000 of capital in the Tribune Review, much of which came from the 1935 Trust.

22. From the inception of the Pittsburgh Tribune Review to 2007, there were \$244,000,000 of losses. In 2004, \$18,000,000 of principal distributions were received by Richard Mellon Scaife from the 1935 Trust and in 2003 \$19,500,000 was similarly received by him.

23. It is believed and therefore averred that in 2003 and 2004 those distributions from the 1935 Trust were used to fund the losses realized by the Pittsburgh Tribune Review.

24. In 2007 Richard Mellon Scaife received \$37,750,000 of principal distributions from the 1935 Trust.

25. It is believed and therefore averred that in 2007 those distributions from the 1935 Trust were used to fund the losses realized by the Pittsburgh Tribune Review.

26. As of December 31, 2007 after the principal distributions described in paragraphs 22-25 hereof, the 1935 Trust had principal of a value of approximately

\$141,000,000.

27. The distributions to Richard Mellon Scaife from the 1935 Trust were made at a time when he had hundreds of millions of dollars available to him from other assets, including but not limited to trusts created by his mother as well as revocable and irrevocable trusts that he created.

28. Given his net worth, Richard Mellon Scaife could have funded the losses of the Pittsburgh Tribune Review from a variety of different sources. As of December 31, 2007, the 1958 Trust, 1961 Trust, and 1965 Trust had a total value of approximately \$429,000,000 and it is believed and therefore averred that the Charitable Remainder Unitrust and the Revocable Trust held hundreds of millions of dollars.

29. Upon information and belief, at a meeting in late 2007 or early 2008, Trustee Gutnick represented that the losses of the Pittsburgh Tribune Review for the 2008 year would be substantially less than that of 2007 and that an alternative funding mechanism had been implemented to fund any post-2008 losses of the Pittsburgh Tribune Review.

30. Contrary to representations of Trustee Gutnick, the 1935 Trust was totally exhausted at some time prior to the death of Richard Mellon Scaife, with no communication to Jennie or David that the 1935 Trust has been totally liquidated and distributed to Richard Mellon Scaife.

31. Upon information and belief, the Trustees required Richard Mellon Scaife to sign Waiver, Release, Discharge and Indemnification Agreements whereby the Trustees were indemnified by Richard Mellon Scaife for their distribution of the assets of the 1935 Trust to

Richard Mellon Scaife due to the concern of the Trustees of their personal liability for violating their duties as Trustees of the 1935 Trust.

32. It is believed and therefore averred that the distributions to Richard Mellon Scaife from the 1935 Trust were motivated by a desire to deny Petitioner and her brother of any benefits from the 1935 Trust after their father's death.

33. Despite having knowledge that Jennie, and her brother David, were named as remaindermen beneficiaries to the 1935 Trust and having a comprehensive understanding of the various other Trusts in which Richard Mellon Scaife had an interest, the Trustees allowed Richard to utilize the 1935 Trust as his own personal bank account by repeatedly fulfilling Richard's requests to fund the yearly losses of the Pittsburgh Tribune-Review.

34. As a vested remainder beneficiary, Jennie is entitled to know the specifics of the administration of the 1935 Trust, even if it has been dissipated, as she is a party in interest in its administration.

35. Jennie brings forth this Petition on her own behalf, pursuant to 20 Pa. C.S.A. § 7723, consents to serving as a representative to any unborn, unascertained descendants and further waives the 30-day notice period required under 20 Pa. C.S.A. § 7725.

CITATION FOR RECORDING OF TRUST

36. Paragraphs 1 through 34 of this pleading are hereby incorporated herein as if set forth at length.

37. Upon information and belief the 1935 Trust has never been recorded in this or any other jurisdiction.

38. It is believed and therefore averred that the original Trust Agreement is in the custody and control of the Trustees.

39. Petitioner respectfully requests this Honorable Court enter a Citation upon the Trustees to show cause why they shouldn't record the 1935 Trust with the Department of Court Records/Register of Wills of Allegheny County, Pennsylvania.

CITATION TO COMPEL FILING OF AN ACCOUNT

40. Paragraphs 1 through 38 of this pleading are hereby incorporated herein as if set forth at length.

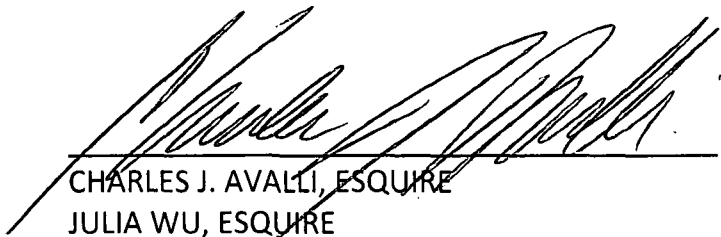
41. Upon information and belief an accounting of the activity of the 1935 Trust have never been filed with any jurisdiction.

42. Filing an accounting of the 1935 Trust from its inception until the date of its final distribution would cover a period of almost 90 years. It is possible the records do not exist for the entire period since the inception of the trust. Petitioner does not desire these matters be delayed by trying to file an Account for periods long ago.

43. Your Petitioner respectfully requests this Honorable Court enter a Citation upon the Trustees to show cause why they should not file an Account of the activities of the 1935 Trust from January 1, 1998 to July 4, 2014, the date of death of Richard Mellon Scaife.

Wherefore, your Petitioner respectfully requests this Honorable Court enter a citation upon the Trustees as set forth in the attached proposed Order of Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Charles J. Avalli', is written over a horizontal line. The signature is fluid and cursive.

CHARLES J. AVALLI, ESQUIRE
JULIA WU, ESQUIRE
Attorneys for Petitioner
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Phone 412-261-9900

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VERIFICATION

I, Jennie Scaife, hereby certify that the statements set forth in the foregoing *PETITION FOR CITATION TO COMPEL RECORDING OF A TRUST AGREEMENT AND FILING OF AN ACCOUNT* are true and correct to the best of my personal knowledge, information, and belief.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date

10/20/14

JENNIE SCAIFE

Jennie Scaife

DEED OF TRUST

SARAH MELLON SCAIFE

to

RICHARD K. MELLON, ALAN M. SCAIFE and
THE UNION TRUST COMPANY OF PITTSBURGH,
Trustees.

RICHARD MELLON SCAIFE TRUST

Dated December 1935.



KNOW ALL MEN BY THESE PRESENTS:

That I, SARAH MELLON SCAIFE, of the City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, have given, transferred, assigned and delivered, and by these presents do give, transfer, assign and deliver unto RICHARD K. MELLON, of Pittsburgh, Pennsylvania, ALAN M. SCAIFE, also of Pittsburgh, Pennsylvania, and THE UNION TRUST COMPANY OF PITTSBURGH, a corporation of the Commonwealth of Pennsylvania having its principal place of business in said City of Pittsburgh (hereinafter referred to as "Trustees"), in trust for the uses and purposes hereinafter set forth, the securities listed in a schedule hereto attached, made part hereof and marked "Exhibit A". Said securities and such other shares of stock, moneys, bonds, notes, securities and/or other real or personal properties as in accordance with the provisions hereof shall at the time being constitute the corpus of the trust estate are hereinafter sometimes referred to as the "Trust Estate".

The Trust Estate and the income therefrom shall be held, managed and disposed of by the Trustees for the following uses and purposes and in accordance with the following directions:

1. The Trustees, in their discretion, may hold all or

any part of the Trust Estate in the form and character of property in which the same shall be received by them, and at any time and from time to time may sell or exchange the whole or any part thereof; may invest the proceeds of any sale of the whole or any part of the Trust Estate and any other moneys which by reason of any circumstance may at the time being be a part of the corpus of the Trust Estate, in such shares of stock, bonds, notes, securities and/or other real or personal properties as the Trustees shall deem advisable; may exchange the whole or any part of the Trust Estate for such shares of stock, bonds, notes, securities and/or other real or personal properties as the Trustees shall deem advisable; may lease or loan the use of the whole or any part of the Trust Estate; and may enter into such transactions, contracts, engagements and obligations of whatsoever character as the Trustees shall deem necessary or advisable for the benefit or protection of this trust and of the Trust Estate. The Trustees shall not be confined to legal investments as now or hereafter defined by law. Any sale of the whole or any part of the Trust Estate may be public or private and any sale, exchange, lease or loan thereof may be to or with such parties (including persons who at the time being may be Trustees hereunder and corporations or associations of which they may be officers, directors, stockholders or members), for such considerations and

upon such terms and conditions as the Trustees shall deem advisable. No party shall be under any obligation whatever to make inquiry in regard to the existence of any power, authority or discretion exercised or proposed to be exercised by the Trustees respecting any matter whatever in connection with this trust or the Trust Estate or in regard to the necessity or propriety of the exercise of any such power, authority or discretion, or to see to the proper application of any moneys, shares of stock, bonds, securities or other properties of whatsoever character received by the Trustees in or in connection with any sale, exchange, lease or loan of any part of the Trust Estate or in connection with any other transaction of whatsoever character entered into by the Trustees relating to this trust or the Trust Estate. The Trustees shall have full power and authority to execute, acknowledge and deliver all such deeds, bills of sale, powers of attorney for transfer, and other instruments of whatsoever character as in their judgment shall be necessary or proper in order to effect any sale, exchange, lease or loan of the whole or any part of the Trust Estate or to enter into or consummate any other transactions of whatsoever character in connection with or on behalf of this trust or of the Trust Estate. The enumeration herein of any specific power, authority or discretion or

the failure herein to enumerate any other power, authority or discretion, shall not be construed to limit in any way the full and complete power, authority and discretion which shall be exercisable by the Trustees at any and all times respecting this trust and the Trust Estate and every part thereof, it being my intention that as respects this trust and the Trust Estate and in the administration and management thereof, the Trustees shall have as full and complete power, authority and discretion as if they were the actual owners of the Trust Estate and every part thereof.

2. This trust is for the benefit of my son, RICHARD MELLON SCAIFE. For convenience, this trust shall be designated and known as the "Richard Mellon Scaife Trust".

3. This trust shall continue until, but shall terminate upon, the expiration of a period of twenty-one years after the death of my son, Richard Mellon Scaife, or the expiration of a period of twenty-one years after my death, whichever of said two events shall last occur.

4. The income of the Trust Estate shall be accumulated by the Trustees until my said son shall arrive at the age

of twenty-five years on July 3, 1957, unless by law at the time being in force the accumulation of income shall be required to cease at an earlier date, in which event the period of income accumulation shall expire upon such earlier date. In the investment and management of such accumulated income, the Trustees shall have as full and complete power, authority and discretion as are given to them in Article 1 hereof.

5. At the expiration of the period specified in Article 4 hereof for the accumulation of income, all accumulated income then remaining in the hands of the Trustees shall be distributed as follows:

(a) To my said son, if he shall then be living.

(b) In the event that my said son shall be deceased at the expiration of said period of income accumulation, then, share and share alike, to the issue of my said son then living, per stirpes and not per capita.

(c) In the event that my said son shall be deceased at the expiration of said period of income accumulation and in the further event that there shall be no issue of my said son then living, then and in such events, to the persons to whom the funds, securities and/or properties

constituting such accumulated income would descend under the intestate laws of the Commonwealth of Pennsylvania in force at the time of the expiration of said period of income accumulation, with like effect as if my said son had died, intestate, at the time of the expiration of said period of income accumulation actually owning in his own right said funds, securities and/or properties and had been a citizen and resident of the Commonwealth of Pennsylvania and domiciled therein.

The word "issue", as used in this Article 5 as well as in Articles 6 and 7 hereof, shall be taken to mean lineal descendants.

6. All income received by the Trustees after the expiration of said period of income accumulation shall be distributed quarter-yearly, or at such other regular periods as the Trustees from time to time shall find convenient, as follows:

(a) To my said son, if living, during the remainder of his life.

(b) In the event that my said son shall be deceased at the time any such periodical distribution is to be made, the income then to be distributed shall be distributed,

share and share alike, to the issue of my said son living at the time such periodical distribution is to be made, per stirpes and not per capita.

(c) In the event that my said son shall be deceased at the time of any such periodical distribution, and in the further event that at such time there shall be no issue of my said son then living, then and in such events, the income then to be distributed shall be distributed to the persons to whom the funds, securities and/or properties constituting such income would descend under the intestate laws of the Commonwealth of Pennsylvania in force at the time of such distribution, with like effect as if my said son had died, intestate, at the time of such distribution actually owning in his own right such funds, securities and/or properties and had been a citizen and resident of the Commonwealth of Pennsylvania and domiciled therein.

7. Upon the termination of this trust at the time specified in Article 3 hereof, the corpus of the Trust Estate shall be distributed as follows:

(a) Share and share alike to the issue of my said son living at the termination of this trust, per stirpes and not per capita.

(b) In the event that there shall be no issue of my said son living at the termination of this trust, then and in such event to the persons to whom the funds, securities and/or properties constituting the corpus of the Trust Estate would descend under the intestate laws of the Commonwealth of Pennsylvania in force at the time of the termination of this trust, with like effect as if my said son had died, intestate, at the time of the termination of this trust, actually owning in his own right such funds, securities and/or properties and had been a citizen and resident of the Commonwealth of Pennsylvania and domiciled therein; provided, however, that if my daughter, Cordelia Mellon Scaife, should be living at the termination of this trust, I direct that such portion of the corpus of the Trust Estate as, in accordance with the provisions of this Article 7, may be distributable to her, shall not be distributed to her personally but shall be distributed to the Trustees of the trust which I have created for the benefit of my said daughter by deed of trust of even date herewith to Richard K. Mellon, Alan M. Scaife and The Union Trust Company of Pittsburgh, Trustees, known as the "Cordelia Mellon Scaife Trust",

and shall be and become a part of the corpus of the Trust Estate under such deed of trust and as such be subject to all the provisions thereof; but if said Cordelia Mellon Scaife Trust should be terminated, in accordance with the provisions of said deed of trust or otherwise, prior to the termination of this trust, then and in such event, such portion of the corpus of the Trust Estate under this Deed of Trust as, in accordance with the provisions of this Article 7, may be distributable to my said daughter shall be distributed to her personally.

8. I desire to make adequate provision for any eventuality affecting the welfare of my son, Richard Mellon Scaife, which may occur during his life and, therefore, I direct that, notwithstanding any of the other provisions of this instrument, the Trustees, if, as, whenever and as often as they shall deem that the best interests of my said son shall require or make advisable further or additional provision to be made for him, shall have the power and authority -

(a) During the period of income accumulation specified in Article 4, to distribute to my said son, as his absolute property, all or such portion of the then accumulated income as the Trustees shall deem to

be for his best interests;

(b) During the period of income accumulation specified in Article 4, to distribute to my said son, as his absolute property, all or such part of the current income of the Trust Estate as the Trustees shall deem to be for his best interests; and/or

(c) To distribute to my said son, as his absolute property, all or such portion of the corpus of the Trust Estate as the Trustees shall deem to be for his best interests, and if, as and when the entire corpus of the Trust Estate may be so distributed to my said son, this trust shall terminate notwithstanding that the time of termination specified in Article 3 hereof may not yet have arrived.

9. It may be that upon the death of my son, Richard Mellon Scaife, the circumstances may be such, or thereafter during the continuance of this trust may become such, that, in the judgment of the Trustees, it will be advisable to make distribution of the income and/or corpus of the Trust Estate otherwise than in accordance with the provisions of Articles 4, 5, 6 and 7 hereof, and I wish the Trustees to be in a position to exercise

their best judgment regarding the distribution of the income and/or corpus of the Trust Estate in the light of such circumstances. Consequently, I authorize and empower the Trustees -

(a) If, as, whenever and as often as they shall deem it advisable, during the period of income accumulation specified in Article 4 hereof, to elect to distribute the whole of the income which shall remain accumulated at the time of such election, or such portion thereof as they shall deem advisable, to the persons who, in accordance with the provisions of Article 5 hereof, would be entitled to all the accumulated income if said period of income accumulation specified in Article 4 had expired at the time such election is made by the Trustees.

(b) To elect, at any time during the period of income accumulation specified in Article 4 hereof, to terminate the further accumulation of income hereunder. In the event of such election by the Trustees to terminate further accumulation of income hereunder, the current income received by the Trustees subsequent to such election shall be distributed quarter-yearly or at such other regular periods as the Trustees from time to time shall find convenient, to the persons who, in accordance with the

provisions of Article 6 hereof, would be from time to time entitled to such current income if said period of income accumulation specified in Article 4 had expired at the time of such election by the Trustees to terminate further accumulation of income. In the event of such election by the Trustees to terminate further accumulation of income hereunder, they shall have the power and authority -

(1) Forthwith to distribute the then accumulated income to the persons who, in accordance with the provisions of Article 5 hereof, would be entitled to such accumulated income if said period of income accumulation specified in Article 4 had expired at the time of said election by the Trustees to terminate further accumulation of income; or

(2) To hold the then accumulated income for the time being, and thereafter during the period of income accumulation specified in Article 4, to make distribution of the whole thereof at such time as the Trustees deem advisable to the persons who, in accordance with the provisions of Article 5 hereof, would be entitled to all the accumulated income if

said period of income accumulation had expired at the time the Trustees elect to make such entire distribution, or during said period of income accumulation specified in Article 4, to make partial distributions thereof in such amounts and at such times as the Trustees shall deem advisable, each such partial distribution to be to the persons who, in accordance with the provisions of Article 5 hereof, would be entitled to all the accumulated income if said period of income accumulation specified in Article 4 had expired at the time the Trustees elect to make such partial distribution; or

(3) To hold the then accumulated income, or so much thereof as shall not be distributed by the Trustees pursuant to the provisions of Subdivision (2) of this Section (b), until the expiration of said period of income accumulation and then make distribution thereof to the persons entitled thereto in accordance with the provisions of Article 5 hereof.

(c) Without exercising their election given in Section (b) of this Article 9 regarding the further accumulation of income hereunder, and with or without exercising any election given to them in Section (a) of

this Article 9 regarding the distribution of accumulated income, to elect, if, as, whenever and as often as the Trustees shall deem it advisable, during said period of income accumulation specified in Article 4, to distribute all the current income, or such portion thereof as they shall deem advisable, for such period or periods of time as they shall deem advisable. Such whole or partial distribution of current income may be made quarter-yearly or at such other periods as the Trustees from time to time shall find convenient and shall be made to the persons who, in accordance with the provisions of Article 6 hereof, would be entitled to the income of the Trust Estate at the time each such distribution of current income is made, if said period of income accumulation specified in Article 4 had expired prior to the time of such distribution.

(d) If, as, whenever and as often as the Trustees shall deem it advisable, to elect to distribute any portion of the corpus of the Trust Estate, and also at any one time to elect to distribute the whole of the corpus of the Trust Estate. Any such distribution

of corpus, whether of the whole or of any portion thereof, shall be made to the persons who, in accordance with the provisions of Article 7 hereof, would be entitled to the corpus of the Trust Estate if this trust by its terms had terminated at the time of such election by the Trustees to distribute corpus.

If, as and when the entire corpus of the Trust Estate shall be distributed pursuant to the provisions of this Article 9, this trust shall terminate, notwithstanding that the time of termination specified in Article 3 hereof may not yet have arrived.

The provisions of this Article 9 shall not be applicable during the life of my said son. During his life, the discretionary power and authority of the Trustees regarding the distribution of accumulated or current income or of corpus shall be exercisable only in accordance with the provisions of Article 8 hereof.

10. In no event and under no circumstance shall any part of the corpus of the Trust Estate or of any accumulated or

current income be distributed to me or I become entitled thereto. In the event that at any time the circumstances should be such that by reason of any of the provisions of this instrument, and particularly by reason of the operation of the intestate laws of the Commonwealth of Pennsylvania under Section (c) of Article 5, Section (c) of Article 6, or Article 9, I should become entitled to receive distribution of the whole or any part of the corpus of the Trust Estate or the whole or any part of the accumulated or current income, I direct that any and every such distribution shall be made to the persons and in the proportions with like effect as if I were deceased, so that I shall not participate or be entitled to participate therein in any manner or to any extent whatever.

11. The power and authority which, by the provisions of Articles 8 and 9 hereof, I give to the Trustees respecting the distribution of income and/or corpus of the Trust Estate, shall be exercisable by them in their absolute and uncontrolled discretion, and I expressly direct that the Trustees shall be the sole judges as to the necessity, advisability, propriety and amount of any such distribution, whether of accumulated or current income or of corpus, and that their decision in regard

thereto shall be final and conclusive, shall be binding upon all parties having any interest in the corpus or income of the Trust Estate, and shall not be open or subject to question in any manner or for any reason whatsoever.

12. It may be that in the distribution of accumulated income in accordance with the provisions of Sections (b) and (c) of Article 5, as well as in accordance with the provisions of Section (a) and of Subdivisions (1), (2) and (3) of Section (b) of Article 9 hereof, and also in the distribution of current income in accordance with the provisions of Sections (b) and (c) of Article 6 as well as in accordance with the provisions of Sections (b) and (c) of Article 9 hereof, it will be difficult or impossible for the Trustees to know or to ascertain with absolute accuracy the persons to whom such accumulated and/or current income should be distributed and the respective amounts distributable to each person without an adjudication by a court of competent jurisdiction, and as I think it inadvisable that the Trustees and the Trust Estate should be burdened with the trouble and expense incident to the making of such adjudication, I expressly direct that in connection with any such distribution of accumulated or current income, the Trustees shall be under no obligation or duty to file any account or to seek any such

adjudication by a court of competent jurisdiction, but shall have the power and authority to make distribution of accumulated and/or current income to such persons and in such respective amounts as the Trustees, in their discretion and with the knowledge at hand at the time of such distribution, shall deem to be entitled to such accumulated income and/or current income in accordance with the provisions of the above mentioned Sections and Subdivisions. Nothing in this Article 12 contained is intended to prohibit the Trustees, in their discretion, from filing an account in connection with any distribution of accumulated income or current income directed or elected to be made by the Trustees pursuant to any of the provisions hereof and to having an adjudication by a court of competent jurisdiction regarding the persons entitled thereto. I expressly direct that any such distribution, whether of accumulated or current income, made by the Trustees without the filing of any account or the adjudication by any court of competent jurisdiction, shall be final and conclusive, shall be binding upon all parties having any interest in the Trust Estate or any part thereof or any income therefrom, and shall not be open to question in any manner or for any reason whatsoever, and in no event shall the Trustees be subject to any obligation, liability or surcharge on account thereof.

13. The distribution of the whole or any part, portion or share of the corpus of the Trust Estate or of the accumulated or current income thereof, may be made in cash or properties of any character whatsoever, or partly in cash and partly in properties, as the Trustees at the time of such distribution shall deem advisable, and the determination by the Trustees as to the manner in which such distribution shall be made, whether in cash or properties or partly in cash and partly in properties, and as to the value of such properties, shall be conclusive upon all parties entitled to any benefit, interest or share in the corpus or income of the Trust Estate.

14. I direct that any shares of stock, securities or other property of whatsoever character, except only cash, which shall be issued, assigned, transferred, conveyed or delivered to the Trustees by reason or on account of any shares of stock or securities of any corporation, association, trust or organization then constituting a part of the Trust Estate, whether the issuance, assignment, transfer, conveyance or delivery of any such shares of stock, securities or other property be by way of a dividend by such corporation, association, trust or organization or upon its dissolution, or in any liquidation of its capital, or as a part of, in connection with, or by reason of any

reorganization, consolidation, merger, sale of its assets, or adjustment of its affairs, or otherwise howsoever, shall, for all purposes of the Trust Estate and of the provisions of this instrument, be deemed to be corpus of the Trust Estate and not income thereof.

15. Any power, authority or discretion herein conferred upon or vested in the Trustees and any and every action authorized to be taken by the Trustees under any of the provisions of this instrument may be exercised or taken by two of the Trustees with the same force and effect as if taken by all the Trustees. All the powers, authorities and discretions herein conferred upon or vested in, and any and all actions which, under any of the provisions hereof, may be taken by the Trustees herein specifically named, shall extend to their successors in office, and may from time to time be exercised or taken by the Trustees for the time being acting under this instrument in all respects and with like effect as if such successor Trustees were herein specifically named as Trustees hereunder.

16. It is my intention that the Trustees shall always consist of two individuals, and a trust company, bank, corporation or organization incorporated or organized under the laws of the

United States of America, or of any state therein, or of any foreign country, of recognized standing and authorized by law to administer trusts of this character (hereinafter sometimes referred to as "Corporate Trustee"). In the event of the death, resignation or refusal or inability to act of either of the individual Trustees hereinbefore named, or of any of their successors, the successor of such individual Trustee shall be appointed by the other two Trustees, and in the event of their failure to agree, by a court of competent jurisdiction, upon the application of any Trustee or of any other party having an interest in this trust. In the event of the resignation or of the inability or refusal to act of the trust company herein named, or of any successor Corporate Trustee, the successor of such trust company or of such successor Corporate Trustee so refusing or being unable to act as Trustee hereunder shall be a Corporate Trustee appointed by the two individual Trustees, or, in the event of their failure to agree, by a court of competent jurisdiction, on the application of any Trustee or of any other party having an interest in this trust. It is my intention that the individual Trustees shall have the power and authority, at any time and from time to time and whenever, in their absolute discretion, they shall deem such action to be advisable, to

remove the Corporate Trustee at the time being acting hereunder and to appoint as its successor hereunder a Corporate Trustee, and I direct that at any time the individual Trustees for the time being acting hereunder shall have the power and authority, in their absolute discretion, to remove the Corporate Trustee at the time being acting hereunder (whether such Corporate Trustee be the trust company herein named or any successor Corporate Trustee) and to appoint as its successor hereunder a Corporate Trustee, and thereupon every power, authority and discretion vested in or exercisable by the Corporate Trustee so removed shall cease and all such powers, authorities and discretions shall be vested in and thereafter shall be exercisable by the Corporate Trustee so appointed. Any appointment of a successor Trustee by the other two Trustees shall, for all purposes, be sufficiently and conclusively evidenced by a writing purporting to make such appointment, signed in duplicate by such other two Trustees, one copy being deposited with the Trustee ceasing to act, or the legal representatives of his or its estate, and one copy thereof being deposited with the successor Trustee named therein. The power and authority of the individual Trustees to remove the Corporate Trustee shall be deemed for all purposes to have been duly exercised, and the removal of such Corporate

Trustee shall be deemed to have been fully effected, if the exercise of such power and authority by the individual Trustees be evidenced by a writing purporting to effect such removal, signed in duplicate by such individual Trustees, one copy thereof being deposited with the Corporate Trustee so removed and one copy thereof being retained by the individual Trustees or deposited with the successor Corporate Trustee.

17. The Trustees shall have power to employ and retain such attorneys, agents and other representatives as they from time to time shall deem necessary for the proper administration of the trust, and to fix and pay out of the Trust Estate the compensation of all such attorneys, agents and representatives and all other expenses which the Trustees may deem necessary to incur in connection with the administration of the trust. No Trustee, whether individual or corporate, shall incur any personal liability of any character whatever by reason of any matter or thing of whatsoever nature which may occur in connection with the administration of this trust, save only for his or its own gross negligence or wilful default. The Trustees, if and whenever they deem it advisable or more convenient so to do, may cause any shares of stock, securities or other properties

constituting a part of the Trust Estate or the income thereof to be issued, taken or stand in the name of the Corporate Trustee, or its nominee, with full power and authority in such Corporate Trustee, or its nominee, to receive and receipt for all income therefrom. All taxes and other governmental charges of whatsoever character levied or assessed upon or payable with respect to the corpus or income of the Trust Estate, and all expenses of the administration of the trust, including the compensation of the Trustees and of such attorneys, agents or other representatives as from time to time they shall deem necessary to employ or retain, shall be paid out of the income of the Trust Estate unless the Trustees, in their absolute discretion, shall deem that under the circumstances all or some part thereof should equitably be paid out of the corpus of the Trust Estate.

18. Neither such income nor corpus of the Trust Estate as may be or become distributable to any distributee in accordance with the provisions hereof shall, until the actual distribution thereof to such distributee, be subject to the debts, obligations, liabilities or engagements of such distributee or to execution, attachment or other judicial process of whatsoever character, or shall be assignable or transferable by

such distributee voluntarily or involuntarily, and the distribution of any income shall not be anticipated except as in Articles 8 and 9 hereof expressly authorized.

19. It may be that I or others shall hereafter determine to give to the Trustees additional securities, funds or properties, and if I or others do so, it is my intention and I direct that forthwith all such additional securities, funds or properties shall be and become a part of the corpus of the Trust Estate with like effect as if specifically named herein.

This trust shall be and is intended to be irrevocable, and I hereby renounce any and every right, power and authority which otherwise I might or could have to revoke, alter or amend this Deed of Trust, or any of the provisions hereof, or the trust hereby created.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30th day of December, 1935, at Pittsburgh, Pennsylvania.

Sarah Mellon Scife (SEAL)

Signed, sealed and delivered
in the presence of:

E. O. Myer

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF ALLEGHENY)

ss:

On this 30th day of December, 1935, before me, a Notary Public in and for the County and Commonwealth aforesaid, came the above named SARAH MELLON SCAIFE and acknowledged the foregoing instrument to be her act and deed, and desired the same to be recorded as such.

WITNESS my hand and notarial seal the day and year aforesaid.

E. C. McHugh
Notary Public.

My commission expires:

January 24, 1937.

EXHIBIT A

2 shares of the capital stock of The Union
Trust Company of Pittsburgh, a corporation
of the Commonwealth of Pennsylvania.

400 shares of the preferred capital stock of
Pittsburgh Coal Company, a corporation
of the Commonwealth of Pennsylvania.

S. M. S.

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the parties designated as Trustees in the foregoing instrument, do hereby accept the trust thereby created upon the terms and conditions therein specified.

WITNESS the due execution hereof this 31st day of December, 1935, at Pittsburgh, Pennsylvania.

Witness:

[Signature] Richard S. [Signature] (SEAL)

E. C. [Signature] Alan M. Scalf (SEAL)

Attest:

[Signature]
Assistant Secretary

THE UNION TRUST COMPANY OF PITTSBURGH,

By [Signature]
Vice President.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE:

Docket No. _____

TRUST UNDER DEED OF TRUST
UNDER SARAH MELLON SCAIFE,
SETTLOR, DATED DECEMBER 30, 1935

ORDER OF COURT

AND NOW, on this _____ day of _____ 2014, upon consideration of the *PETITION FOR CITATION TO COMPEL RECORDING OF A TRUST AGREEMENT AND FILING OF AN ACCOUNT*, it is hereby ORDERED ADJUDGED and DECREED as follows:

1. A Citation is issued upon PNC Bank, National Association, H. Yale Gutnick and James M. Walton to show cause why the Trust Agreement, dated December 30, 1935, created by Sarah Mellon Scaife with Richard K. Mellon, Alan Scaife and Union Trust Company of Pittsburgh should not be produced by them and recorded with the Department of Court Records/Register of Wills of Allegheny County, Pennsylvania.

2. A Citation is issued upon PNC Bank, National Association, H. Yale Gutnick and James M. Walton to show cause why an Account for the administration of the December 30, 1935 Trust created by Sarah Mellon Scaife with Richard K. Mellon, Alan Scaife and Union Trust Company of Pittsburgh for its administration from January 1, 1998 to July 4, 2014 should not be filed with this Court.

3. Citations returnable on the _____ day of _____, 2014.

By the Court:

J.