

MONEY

Ex-supermarket magnate must repay his half-sister

Trust fund misused, court says

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John Schwegmann
Failed to live up to his duties as trustee, judges rule

A state appeals court said John F. Schwegmann, the former New Orleans supermarket magnate, misused his half-sister's trust fund and must pay her for the lost money.

An attorney for Margaret Melba Schwegmann Brown said Thursday that the amount owed by John Schwegmann could run as high as \$5 million.

The recent ruling, which overturned a lower court decision, was the latest blow to the Lakefront

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State began garnisheeing wife's pay in April '02

SCHWEGMANN, from C-1

businessman who in recent years lost the family-owned Schwegmann Giant Super Markets, watched his and his wife's political careers falter and struggled to maintain his personal wealth.

In a strongly worded 16-page ruling, a panel of three judges from the 4th Circuit Court of Appeal said Schwegmann failed to live up to his legal duties as trustee of a fund set up by his father for Brown when she was a young girl.

Over time, other trustees of the fund died or resigned, leaving management of the money solely to Schwegmann and his wife, Melinda Schwegmann, said New Orleans attorney Randall Smith, who represented Brown in the case.

The trust consisted of Brown's 3 percent stake in the Schwegmann family business, which she received from her father, John G. Schwegmann, when she was a young girl. The younger John Schwegmann received 82 percent of the business. A third sibling, Guy Schwegmann, received the remaining shares. The trusts were set up before the senior Schwegmann died in 1995.

Between 1986 and 1996, Brown's shares of the business earned about \$554,000, mainly in dividends. But the money never reached Brown, according to the ruling.

Instead, Schwegmann re-invested Brown's earnings in

the family business, which he controlled.

In a trial of the suit in spring 2002, Schwegmann testified that reinvesting the income was simply a continuation of the practice that his father used when the father guided Brown's trust.

District Judge Nadine Ramsey, who originally heard the case, agreed with that argument and ruled in favor of Schwegmann in the case.

But the appellate judges said Ramsey erred.

"(Schwegmann's) contention that he managed the trust funds in the manner his father prescribed is seriously flawed," the judges wrote.

The judges noted that at the same time Schwegmann was putting Brown's earnings back into the family business, he was keeping his own dividends for himself and borrowing millions of dollars from the grocery chain to finance expenses for himself and his family

"In effect, (Schwegmann) was using his sister's trust funds for his own personal benefit. This type of self-dealing by trustees in the form of loans is absolutely prohibited" by state civil law, the judges wrote.

Schwegmann's failure to establish a separate bank account for Brown's earnings was "an express failure to safeguard trust funds by segregating them from other monies," according to the judges.

Schwegmann's attorney did not return a telephone message requesting comments about the recent ruling. Schwegmann could not be reached.

The judges ordered the lower court to determine how much money Schwegmann owes his sister for misusing the trust fund.

Smith said he will ask the district judge to base the award on the amount of money that would have been in the trust had the funds been invested properly in

a stock portfolio or other typical investment instruments.

He said the claim could be as high as \$5 million depending on the aggressiveness of the investment instruments used as barometers.

Schwegmann's ability to pay the claim may be limited.

Earlier this year, one of Schwegmann's attorneys said his client wasn't able to pay a \$5.4 million claim he owes to Schwegmann Giant Super Markets retirees who won a lawsuit for compensation for food vouchers they were promised before the company was sold and eventually went out of business.

The third-generation grocery business ran into trouble in the mid-1990s after an ill-timed expansion launched by Schwegmann and an onslaught of new competition in the company's biggest markets.

In 1996, Schwegmann lost reelection to the state Public Serv-

ice Commission seat he had held since his father gave up the office. Over the following six years he lost two more bids to rejoin the utility regulatory panel.

His wife, former Lt. Gov. Melinda Schwegmann, lost a bid for governor in 1995. She soon returned to public office by winning a seat in the state House of Representatives, but she gave up that position this year to make an unsuccessful bid to return to the lieutenant governor's office.

With the couple facing several million dollars in various legal claims, the state in April 2002 began garnisheeing a portion of Melinda Schwegmann's wages as a state representative to cover a judgment against them.

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