

1. IN RE: THE LONG TRUST DATED JANUARY 16, 2013, 23PR0319**Petition for Order Confirming Successor Trustee and Trust Assets**

This matter was continued from March 8, 2024.

On December 22, 2023, petitioner filed a petition for an order confirming that: (1) the Long Trust dated January 16, 2013, is valid¹; (2) the amendment dated June 13, 2019, restating the Long Trust dated January 16, 2013, is valid and controlling; (3) the property listed in Exhibit “G”² shall be transferred forthwith to petitioner; (4) petitioner, as personal representative of the decedent’s estate, shall be empowered to sign any and all documents necessary to convey the property listed in Exhibit “G” to petitioner; (5) any real and personal property, later discovered titled in decedent’s name, shall be transferred forthwith to petitioner; and (6) notice of this hearing may be served upon the contingent heir, Kathleen Devlin, by publication in the Lake Tahoe Tribune.

No objections have been raised.

1. Factual Background

On January 16, 2013, Robert Charles Long (“decedent”) entered into a revocable trust agreement wherein he declared himself to be the trustee, settlor, and beneficiary of the Long Trust dated January 16, 2013 (the “Trust”). (Petn., ¶ 3; Suda Decl., filed Apr. 4, 2024, Ex. A.)

¹ When petitioner initially filed the petition, he alleged that the original or copy of the Long Trust dated January 16, 2013, had not been found. (Petn., ¶ 3.) Following the March 8, 2024, hearing on this matter, petitioner located the document and submitted a copy to the court. (Suda Decl., filed Apr. 4, 2024, ¶ 6 & Ex. A.)

² Exhibit “G” is an attachment to the instant petition entitled, “Property of Decedent to Be Placed into Trust.” It identifies the real property located at 1877 Osage Circle in South Lake Tahoe, California; as well as any real and personal property later discovered titled in the decedent’s name. There is no allegation that Exhibit “G” was attached to any trust or will document.

Decedent amended and completely restated the Trust on November 27, 2018, and June 13, 2019.³ Neither of these restatements include a schedule of assets or identify the assets being placed in the Trust. (See Petn., Exs. A & C.) The June 13, 2019, restatement states: “Settlor has conveyed and/or intends to convey and transfer, without consideration, to said Trustee, Settlor’s property to be designated, which property shall be held, administered and distributed by said Trustee as provided in this declaration of Trust.” (Ex. A, ¶ 2.01 [“Conveyance”].) “Settlor may from time to time add other property acceptable to the Trustee to the Trust estate by conveyance, assignment, transfer or will. Such property when received and accepted by the Trustee shall become part of the Trust estate and be subject to all the terms and provisions of this declaration of Trust.” (Petn., Ex. A, ¶ 2.02 [“Additions to Trust”].)

Also on June 13, 2019, decedent executed a will that contains a trust pour-over provision giving the residue of the estate to the trustee of the Trust. (Petn., ¶ 9 & Ex. F.)

At the time of his death, decedent was allegedly the owner in “various capacities” of various real and personal property, as listed in Exhibit “G,” including the real property located at 1877 Osage Circle in South Lake Tahoe, California (the “Osage Circle Property”).⁴

2. Discussion

Probate Code section 17200, subdivision (a)⁵ allows a trustee or beneficiary of a trust to petition the probate court “concerning the internal affairs of the trust or to determine the existence of the trust.” (§ 17200, subd. (a).)

³ Petitioner alleges that decedent also amended and completely restated the Trust on March 22, 2019. However, the document that petitioner submitted is not signed by decedent. (See Petn., Ex. D at p. 35.)

⁴ Petitioner has not provided any deed establishing that decedent was the owner of the Osage Circle Property at the time of his death. Following the March 8, 2024, hearing on this matter, petitioner located grant deeds for two individual parcels of real property that the decedent conveyed to the Trust, and submitted a copy of the same to the court. (Suda Decl., filed Apr. 4, 2024, ¶ 7 & Ex. B.)

⁵ Undesignated statutory references are to the Probate Code.

2.1. Validity of the Original Trust

“The essential necessary elements of a valid trust are (1) a trust intent (§ 15201); (2) trust property (§ 15202); (3) trust purpose (§ 15203); and (4) a beneficiary (§ 15205).” (*Dudek v. Dudek* (2019) 34 Cal.App.5th 154, 164.) Having reviewed the original Trust, the court finds these essential elements have been met. Therefore, the court confirms the validity of the original Trust.

2.2. Validity of the June 13, 2019, Amendment

Section 15402 governs modification of a trust. It states: “Unless the trust instrument provides otherwise, if a trust is revocable by the settlor, the settlor may modify the trust by the procedure for revocation.” (§ 15402.) Here, Section 3.02 of the Trust (“Modification”) provides, “[a]t any time and from time to time, the Settlor may, by serving written notice on the Trustee, alter, modify, or amend the Trust created by this declaration in any respect.” (Suda Decl., filed Apr. 4, 2024, Ex. A., ¶ 3.02.) As such, the court finds that the June 13, 2019, Amendment is valid and controlling.

2.3. The Property Listed in Exhibit “G”

Petitioner has not demonstrated that decedent owned the Osage Circle Property listed in Exhibit “G.” Therefore, the court does not have sufficient information to confirm that the property listed in Exhibit “G” shall be transferred forthwith to petitioner.

2.4. Successor Trustee’s Authority to Sign Documents to Convey the Property Listed in Exhibit “G” to Petitioner

As previously stated, petitioner has not demonstrated that decedent owned the Osage Circle Property listed in Exhibit “G.” Therefore, the court denies petitioner’s request for an order confirming the successor trustee’s authority to sign documents to convey the property listed in Exhibit “G” to petitioner.

2.5. Transfer of Later-Discovered Property

Pursuant to the terms of the decedent's Trust and pour-over will, the court confirms that any real and personal property, later discovered titled in decedent's name, shall be transferred forthwith to petitioner.

2.6. Notice by Publication

On January 5, 2024, the court ordered that completion of notice by publication of the instant petition (in the Lake Tahoe Tribune or a newspaper that serves Alameda County) shall be deemed sufficient notice of the hearing under Probate Code section 17100 as to Kathleen Devlin, a contingent beneficiary.

TENTATIVE RULING # 1: THE PETITION IS GRANTED IN PART AND DENIED IN PART. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

2. ESTATE OF SEGRETTO, 23PR0219

Petition for Final Distribution on Waiver of Account

TENTATIVE RULING # 2: ABSENT OBJECTION, PETITION IS GRANTED AS REQUESTED.