

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE: ESTATE OF
WELLARD R. GUFFY

: NO. 41-12-0298
:
: ORPHANS' COURT
:
: *Petition to Compel*

DECREE

On December 27, 2011, prior to his death on February 10, 2012, Mr. Wellard R. Guffy ("Mr. Guffy") executed a Last Will & Testament equipped with a pour-over provision. Pursuant to said provision, at the time of his death his estate would be distributed into the Wellard Raymond Living Trust (the "Trust"), which was established by a declaration of trust also dated December 27, 2011. The sole asset remaining in the Trust is an annuity contract with Ameriprise Financial Services. The annuity contract requires a distribution to the trust of \$34,124.21 on November 17th of each year through November 17, 2021. On November 6, 2013, beneficiary Mozelle Snyder ("Ms. Snyder") passed away and, on February 16, 2014, beneficiary Ethel Lucas ("Ms. Lucas") passed away. Petitioner William R. Colyer ("Petitioner"), as trustee of the trust, withheld Ms. Snyder's share of the 2013 annuity payment and Ms. Lucas's share of the 2014 annuity payment based on both persons passing prior to the annuity payments being paid into the Trust.¹ Petitioner's decision resulted in proceedings before this Court.

On July 22, 2016, the Court issued an opinion that addressed a motion for

¹ Based on the parties reaching a subsequent agreement, they note that ultimately Petitioner distributed these amounts into the estates of Ms. Snyder and Ms. Lucas.

summary judgment which sought a declaration that heirs of the beneficiaries were entitled to the annuity payment distribution if the beneficiary passed away prior to the final annuity payment in 2021. The Honorable Marc F. Lovecchio denied the motion, holding that Mr. Guffy's intent was to distribute the annuity payment of a beneficiary who predeceased the final annuity payment in 2021 to the remaining beneficiaries under the Trust. Judge Lovecchio denied reconsideration on November 1, 2016.

On November 17, 2018, the date of the most recent annuity payment, the living beneficiaries of the Trust were: (1) Pearl M. Colyer, (2) William R. Colyer, (3) Donald W. Colyer, (4) Margaret I. Stryker, (5) Dennis Stalker, (6) Alfred Kaufman, and (7) Boumi Temple. However, on December 5, 2018, Pearl M. Colyer passed away prior to the Trust's distribution of the 2018 annuity payment to the beneficiaries.

Before this Court is Petitioner's *Petition to Compel Payment of Annuity Distribution or, in the alternative, to assess surcharge against Co-Trustees Dennis Stalker & Margaret Stryker*. Petitioner, also a beneficiary of the Trust, requests that the Court order the 2018 annuity payment in the amount of \$8,415.00 be made payable to the Estate of Pearl M. Colyer ("Ms. Colyer") and confirm that said estate is not entitled to any further distributions of the annuity payments. Petitioner argues that the Court's 2016 opinion implicitly prohibited Ms. Snyder's and Ms. Lucas's shares from passing to their estates because the beneficiaries were not alive when the annuity payment was paid into the Trust—i.e. the beneficiaries passed away prior to November 17th of the relevant year. On March 18, 2019, a conference with counsel was held on the petition and the parties agreed that Ms. Colyer's heirs should retain her annuity payment share

since she was alive when the annuity payment was paid into the Trust.

The Court agrees with the parties' interpretation.² This Court will now clarify its July 22, 2016 Opinion & Order. A beneficiary's proceeds due under the annuity contract shall be prorated on a percentage basis to the surviving beneficiaries if the beneficiary passes away before the annuity payment is paid into the Trust. If the beneficiary passes away after November 17th—the date the annuity contract required the annuity payment to be paid into the trust—then the annuity payment shall be distributed to the beneficiary's heirs. The *Petition to Compel* is **GRANTED IN PART**.

IT IS SO DECREED this 26th day of March 2019.

BY THE COURT,

Eric R. Linhardt, Judge

ERL/zs

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Estate of Pearl Mae Colyer (c/o William Colyer)

² Further, the Court is bound by the law of the case doctrine's coordinate jurisdiction rule. See *Zane v. Friends Hosp.*, 836 A.2d 25, 29 (Pa. 2003) (“[T]he coordinate jurisdiction rule commands that upon transfer of a matter between trial judges of coordinate jurisdiction, a transferee trial judge may not alter resolution of a legal question previously decided by a transferor trial judge.”).

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