

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

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|------------------------------------|---|-----------------------|
| IN RE: | : | |
| ESTATE OF ANNA MARIE BOWER, | : | NO. 41-18-0592 |
| Deceased | : | |
| | : | |

OPINION

This matter is before the Court on a Petition for Special Relief filed by Matthew Bower, the Executor of the Estate of Anna Bower (hereinafter "Petitioner") on December 16, 2020. A hearing on the Petition was held February 10, 2021 at which time Petitioner appeared and was represented by Mary Kilgus, Esquire and Penelope Bower (hereinafter "Respondent") failed to appear.

Pursuant to an October 1, 2019 Court Order, the decedent and Respondent were partners in Bower Trucking. At some point, the partnership purchased and currently owns a 1999 Harvester International, VIN 2HSFBASR9XC079183 (hereinafter "truck"). It is believed that Respondent is still in possession of the truck. The Petitioner has repeatedly requested that Respondent make the truck available for an appraisal, which she has refused to do.¹ The Petitioner is now asking that the Court compel Respondent to "return said truck for appraisal and be required to pay the estate the appraised value of the decedent's interest."

At the outset, the Court notes that this issue is governed by General Partnership Law. When a partner dies, the personal representative has the right to act on behalf of the deceased partner in certain respects, including seeking

information under Section 8446. 15 Pa.C.S.A. §§ 8455 and 8446. Such information includes the assets of the partnership. 15 Pa.C.S.A. § 8446(b) (“a partner may inspect and copy . . . any record maintained by the partnership regarding the partnership’s business, financial condition and other circumstances”). It follows, then, that when there is no known value of an asset, there is a right to have that asset appraised.

Based on the above, the Petitioner, as the estate’s executor, has a right to a list of all of Bower Trucking’s assets and the value of each asset. The truck has previously been established by Court Order to be an asset of the partnership. As the value of the truck is unknown, the Petitioner had asked that Respondent make the truck available for appraisal. Since she has failed to do so and refused to respond to Petitioner’s prior attempts to obtain the value of the truck, the Court will Order that Respondent make the truck available at a time and location suitable to Shirn’s, a dealership located in Williamsport, Pennsylvania, for the purpose of conducting an appraisal.

A partner becomes dissociated from a partnership when he or she dies. 15 Pa.C.S.A. § 8461(7)(i). When a partner is dissociated, he or she has the right to receive a buyout payment for their interest in the partnership. 15 Pa.C.S.A. § 8471(a). Since Petitioner is acting in the capacity of the personal representative of the Decedent, the Petitioner has a right receive the buyout payment of the Decedent’s interest in the partnership pursuant to Section 8471(a). The buyout payment would be an asset of the Decedent’s Estate to be distributed in accordance with the terms of the Decedent’s Estate. If the Petitioner disagrees

¹ Petitioner sent letters to Respondent requesting that she make the truck available for inspection

with the value of the partnership assets for the buyout, he has the right to file an action against the partnership pursuant to 15 Pa.C.S.A. § 8471(i).

ORDER

AND NOW, this 25th day of **March, 2021**, for the reasons set forth above, the Petition for Special Relief is **GRANTED** in part and **DENIED** in part.

Respondent, Penelope Bower, shall contact Shirn's within twenty (20) days of the date of this Order and arrange an appraisal of the 1999 Harvester International, VIN 2HSFBASR9XC079183 to occur within thirty-five (35) days of the date of this Order. Respondent shall inform Petitioner's attorney, Mary Kilgus, of the date and time of the appraisal. For the Respondent's benefit, Shirn's is located at 1804 Lycoming Creek Road, Williamsport, PA 17701 and their phone number is 570-326-1581. The cost of the appraisal shall be shared equally between the Petitioner and the Respondent. For the reasons set forth in the Opinion, the Court directs the Respondent to make payment to the Decedent's Estate of the value of the Decedent's interest in the partnership in accordance with 15 Pa.C.S.A. § 8471.

BY THE COURT,

Hon. Ryan M. Tira, Judge

RMT/ads

CC: Mary Kilgus, Esq.
Penelope Bower – 105 Green Valley Road, Hughesville, PA 17737
Alexandra Sholley – Judge Tira's Office
Gary Weber, Esq.