

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

IN RE ESTATE OF:	:	NO. 41-15-0298
	:	
JOSEPH E. LOGUE,	:	
Deceased	:	

ORDER

AND NOW, this 14th day of **October, 2021**, before the Court is a Praeceptum to List for Jury Trial pursuant to 20 Pa.C.S. §777(a) and (d), filed on September 17, 2021, by Veronica L. Morrison, Esquire, attorney for Lisa J. Lettiere, Parent and Natural Guardian of Minor Beneficiary, MEL (“Objector”). On September 20, 2021, Elizabeth White, Esquire, filed a Motion to Strike Objectant’s Praeceptum on behalf of the Accountants, George E. Logue, Jr. and Thomas Burkholder, Vice President and Trust Officer of Woodlands Bank (“Accountants” or “Estate”). On September 21, 2021, Objector’s Answer to Accountants’ Motion to Strike Objector’s Praeceptum to List for Jury Trial was filed.

These matters were heard by the Court on September 27, 2021, at the time originally scheduled for a full hearing on the merits of Objector’s Objections to the Accountings. The Court gave each counsel the opportunity to present any testimony and/or argument in support of their respective positions. Both counsel chose to present only argument. Attorney Morrison provided the Court with a Memorandum of Law which was filed on September 27, 2021. Attorney White filed a Memorandum In Support of Motion to Strike Objectant’s Demand for Jury Trial on behalf of the Estate on October 1,

2021. Objector's Reply to Accountants' Memorandum in Support of Motion to Strike Demand for Jury Trial was provided to the Court on October 5, 2021. Finally, Accountants' Subrebuttal Memorandum In Support of Motion to Strike Objectant's Demand for Jury Trial was filed on October 6, 2021.

Counsel for Objector points to **20 Pa.C.S. §777(a)**, which states “[w]hen a substantial dispute of fact shall arise concerning the decedent’s title to property, real or personal, any party in interest shall be entitled to a trial of such issue by a jury.” The alleged substantial dispute of fact is with regard to the Decedent’s interest in Logue Industries, Inc. (“Company”), which was subject to a Pledge Agreement dated April 10, 2015, and signed by Ricky Martin acting as the Decedent’s successor agent under a Durable Power of Attorney signed by Decedent on March 19, 2015. It is the Court’s understanding that the Decedent’s interest in the Company was pledged in consideration for an alleged debt that the Decedent owed to the Company. Objector sought to obtain, through discovery, signed acknowledgments from Ricky F. Martin and Carolyn L. Martin acknowledging their duties as successor agents under the Durable Power of Attorney. The Executors’ response to this request was “[i]f any such acknowledgments exist, executor has no such documents in its possession, custody, or control,” which was determined to be a sufficient response by this Court’s Order dated September 10, 2021. According to Objector, this precluded her from receiving the documents, if they existed, prior to the September 27, 2021, hearing. Consequently, this raised a substantial dispute of fact as to whether they existed and, by extension whether Ricky Martin had the authority to sign a certain document on Decedent’s behalf which

ultimately was used to transfer Decedent's title to stock in Logue Industries, Inc. back to the Company.

Attorney for Objector argues that there is a substantial dispute of fact as to the Decedent's ownership interest in Logue Industries, Inc. because if the acknowledgment was not signed by Ricky Martin, his signature on behalf of the Decedent on the Pledge Agreement would not have been valid. According to Objector, this would result in the whole transaction being void and therefore the value of the ownership interest would have reverted back to the Decedent and thus remained an asset of the Estate upon his death.

In its Memorandum in Support of Motion to Strike Objectant's Demand for Jury Trial, the Accountants indicate that at the time of his death, the Decedent owned 45 Class A voting shares and 69,835 Class B non-voting shares of stock in Logue Industries, Inc., a closely held family business. The Pledge Agreement was executed to formalize a debt to the Company incurred by the Decedent in the form of an interest free loan termed a "line of credit" by the Company. Following the Decedent's death, with the debt still outstanding, the Company redeemed Decedent's shares under the Pledge Agreement prior to the sale of the Company to a third-party buyer. According to the Accountants, the value of the Decedent's shares was determined by taking his percentage in the Company and multiplying this by the net sales proceeds received by the Company, with no reduction in Decedent's payout to account for his minority shareholder status. Decedent's share of the sale proceeds were put towards satisfying the line of credit, and the Company did not pursue the Estate for the approximately \$3,320.00 shortfall.

Objector demands a jury trial on the basis that there is a significant dispute of fact regarding the Decedent's ownership interest in Logue Industries, Inc., and argues that the documentation that the Executors/Accountants have provided Objector do not establish Decedent's ownership interest in the Company. Objector's argument hinges on the fact that no acknowledgment signed by Ricky Martin has been provided, and assumes that one does not exist and therefore the Pledge Agreement is invalid. Objector further argues that this would invalidate the stock redemption agreement and title to the shares of the Company remains with the Estate. The Accountants argue that a pledge agreement does not transfer title of ownership in property, and the Decedent irrefutably owned shares of Company stock at his death, at which time they became assets of the Estate.

With regard to the jurisdiction of the Court to determine whether a question of fact as to title exists, the Court has held "[i]f at testator's death the property is shown to have been in his possession, or if for any other reason it was presumptively his, a mere denial of his ownership, unsupported, will not oust the court of its jurisdiction; but the court may proceed with the investigation so far as to inform itself whether the denial is made in good faith and a substantial dispute exists." *In re: Moyer's Estate*, 19 A.2d 467, 470 (Pa. 1941), citing *Cutler's Estate*, 73 A. 1111, 1113 (Pa. 1909). In support of her position, Objector cites a portion of this case, which reads: "[t]he submission of the case to a jury upon the disclosure of a substantial dispute of title is not, therefore, merely a matter of formal procedure, unrelated to the question of jurisdiction; it is a procedure prerequisite to the final settlement of the issue of ownership, and unless and until it is taken, the orphans' court is without further jurisdiction in the case." 19 A.2d 467, 470

(Pa. 1941). In Moyer's Estate, the appellant averred that a certificate of deposit was her property and not the property of the testator. She further averred that it was not in his possession at the time of his death and that it had been a gift causa mortis to her by the testator prior to his death. The Court held "if a 'substantial dispute' existed between the parties as to the ownership of the certificate, it had no power to go further and finally determine the question of title raised by appellant's averment of a gift causa mortis." Id.

This Court does not find the Moyer's Estate case to be analogous to the present case. Here, the Court does not find a significant dispute of fact with regard to the **title** of the property in question, namely the Decedent's shares of stock in Logue Industries, Inc. Whether or not an acknowledgment to Decedent's Power of Attorney signed by Ricky Martin exists, the shares of stock in the Company were owned by the Decedent at the time of his death and by his Estate following his death. The shares remained the property of the Estate until they were redeemed by the Company to satisfy Decedent's debt prior to the sale of the Company. Prior to redemption under the Pledge Agreement, however, the Company did not deny that the Decedent was the owner of the shares. Unlike the certificate of deposit in Moyer's Estate, which was subject to claims of ownership by both the Estate and a third party, there are no such disputes here.

Objector, in her Reply to Accountants' Memorandum in Support of Motion to Strike Demand for Jury Trial, disputes the Estate's assertion that the Decedent owned 13.97% of the Company, stating that the documentation that Executors/Accountants have provided do not establish his ownership interest in the Company and that the stock certificates have not been provided, nor have tax returns of the Company been produced. While the Objector may challenge the number or types of shares, or the

overall percentage of ownership interest the Decedent had in the Company, these questions do not raise a substantial dispute of fact as to the title of the shares.

Similarly, whether or not there exists an acknowledgment signed by Ricky Martin to the Decedent's Durable Power of Attorney may raise questions about the validity of the Pledge Agreement. This, in turn, may give rise to questions regarding whether the Executor had the authority to satisfy the Decedent's debt to the Company through the Pledge Agreement, or whether there were other options that would have been in the best interest of the beneficiary. However, it does not create a substantial dispute of fact concerning **title** to the shares which would entitle the Objector to prevail on her demand for a jury trial.

For all of the foregoing reasons, Objector's demand for a jury trial in this matter pursuant to 20 Pa.C.S. §777(a) is hereby **DENIED**. As this Court has determined that there does not exist a substantial dispute of fact with regard to title to the shares of Logue Industries, Ind., the Court will not address the issue of whether Objector's demand for a jury trial was timely under 20 Pa.C.S. §777(d). The Court will proceed with the full hearing on the merits of the Objections to Accountings, which was originally scheduled for September 27, 2021. The dates for the hearing will be provided by separate Order of Court.

By the Court,

Joy Reynolds McCoy, Judge