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In re Davis Family Heritage Trust, 133 Nev. Adv. Op. 4 (Jan. 26, 2017)

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PERSONAL JURISDICTION: TRUSTS

Summary

The Court determined that (1) NRS 155.190(1)(h) only grants the Court appellate jurisdiction over the portion of an appeal order instructing or appointing a trustee, and (2) persons accepting an appointment as an investment trust advisor for a trust with a situs in Nevada impliedly consent to personal jurisdiction in Nevada under 163.5555.

Background

In 2000, Beatrice Davis created the Beatrice B. Davis Family Heritage Trust (the FHT) under Alaska law, with the trust situs in Alaska—she died in 2012. In 2013, the trustee AUTC issued a letter stating it would resign in December 2013 or upon the appointment of a new appointee. The trust protector executed the first amendment to the FHT in February 2014, transferring the trust situs to Nevada and appointing Beatrice's son, Christopher Davis, as the investment trust advisor (ITA). AUTC agreed to the situs transfer and the appointment of the Dunham Trust Company (DTC) as the successor trustee. The FHT created a Nevada LLC (FHT Holdings) and appointed Christopher as the sole manager.

Later, Caroline Davis, a beneficiary of the FHT, requested information on the activities of the FHT and FHT Holdings. Caroline filed a petition to the district court to assume jurisdiction over the FHT when Christopher failed to produce the information. The district court issued an order assuming jurisdiction over the FHT, over Christopher as ITA, and confirming DTC as trustee. Christopher filed a notice of appeal. The district court certified that if remanded, it would assume jurisdiction over the FHT and Christopher as ITA. The Court issued an order remanding to the district court to amend its order.

The district court issued its amended order clarifying it assumed jurisdiction over the FHT and found that the trust situs was in Nevada. The amended order: assumed jurisdiction over the FHT under NRS 164.010; found that the court had personal jurisdiction over Christopher as ITA and manager of FHT Holdings; confirmed DTC's appointment as trustee and Christopher's appointment as ITA; and required production of the requested documents and information.

Discussion

Christopher's appeal of the district court's order assuming jurisdiction over the FHT and over Christopher is beyond the scope of NRS 155.190(1)(h)

Christopher argued in addition to its consideration of the confirmation of DTC as trustee in the amended order, the Court may also consider other issues addressed in the order under NRS 155.190(1)(h).² The statute provides an appeal may be made within 30 days after the notice of entry of order instructing or appointing a trustee.³ The Court found the statute did not expressly

¹ By Maegun Mooso

² NEV. REV. STAT. § 155.190(1)(h) (2015).

³ *Id.*

grant the Court authority to address the district court's findings of facts or conclusions of law beyond the instruction or appointment of a trustee.

Christopher's writ petition is denied because Christopher accepted a position as an ITA and therefore submitted to personal jurisdiction in Nevada under NRS 163.5555

Christopher challenged the finding that a person accepting an appointment as a trust adviser under NRS 163.5555 submits to personal jurisdiction in Nevada,⁴ and argued that the district court abused its discretion, warranting an extraordinary writ relief. Despite being the ITA for a trust with a Nevada situs, he argued he was not a resident, so the district court may not exercise personal jurisdiction over him. The statute provides that if a person accepts an appointment as a trust protector or adviser subject to Nevada laws, that person submits to Nevada courts' jurisdiction.⁵ The Court found that an ITA impliedly consents to personal jurisdiction in Nevada by accepting the ITA position for a trust with a Nevada situs.

Conclusion

As NRS 155.190(1)(h) only grants the Court appellate jurisdiction over the instruction or appointment of a trustee, it denied Christopher's appeal of the district court assuming jurisdiction over the FHT and himself. The Court also found that as Christopher accepted the position of ITA over a trust with a Nevada situs, he consented to personal jurisdiction in Nevada under NRS 163.5555. The Court dismissed Christopher's appeal and denied his writ petition.

⁴ NEV. REV. STAT. § 163.5555 (2015).

⁵ *Id.*