

DEC 14 2012

FILED
CLALLAM COUNTY
DEC 11 2012
11:05 a.m. *mf*
BARBARA CHRISTENSEN, Clerk

by _____
SUPERIOR COURT OF WASHINGTON
COUNTY OF CLALLAM

In re the Estate of:)
AUDREY BLOOM,) NO. 12-4-00352-1
Deceased.) MEMORANDUM OPINION
& ORDER

The executor of the estate of Audrey Bloom has presented a proposed ex parte order blocking distribution of decedent's individual retirement account held by the Wells Fargo Bank. The estate alleges that there may be creditor's claims and/or tax liabilities which will exceed the ability of any other assets to satisfy. The estate therefore requests that a portion of the IRA be withheld from distribution under the terms of its beneficiary designation pending further order of the Court.

The Court will treat this as a request for a temporary injunction. In order to grant a temporary injunction one requirement is that the party seeking the injunction demonstrate a likelihood of success in obtaining a permanent injunction.

RCW 11.18.200(1) reads in pertinent part: "Unless expressly exempted by statute, a beneficiary of a non-probate asset that was subject to satisfaction of the decedent's general liabilities immediately before the decedent's death takes the asset subject to liabilities, claims, estate taxes, and the fair share of expenses of administration reasonably incurred by the personal representative in the transfer of, or administration upon the asset."

The question is, therefore, are the IRA funds subject to the satisfaction of the decedent's general liabilities in the first instance, or are they otherwise expressly exempted by statute.

SCANNED-2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RCW 6.15.020 indicates that pension money is exempt. There are exceptions listed. An individual retirement account is specifically within the term of "employee benefit plan" to which the exemption statute applies. The statute, in Subsection 3, indicates that "any rights accrued or accruing to any citizen of the State of Washington under such a plan and any fund created by such a plan or arrangement "shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever."

None of the exemptions contained within the remainder of the statute apply in this interest. Accordingly, it does not appear to the Court that the IRA funds were subject to payment of the decedent's debts at the time of her death, and, further they are specifically exempted from any form of execution by statute. Accordingly the request for an immediate restraining order is denied.

ORDER

The request for an immediate order restraining Wells Fargo from distribution of the IRA account of Audrey Bloom is denied.

DATED this 10th day of Dec, 2012.

Respectfully submitted,



KEN WILLIAMS
JUDGE