

Assigned for all purposes to: Rosenbloom, Jonathan L, Judicial Officer: Stanley Mosk Dept. - 79

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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DIVISION

In the matter of:

THE PROMENADE TRUST DATED
JANUARY 29, 1993, AS AMENDED AND
COMPLETELY RESTATED ON JANUARY 27,
2010

CASE NO. 23STPB00893

PETITION FOR ORDER:

- (1) DETERMINING THE VALIDITY OF A TRUST PROVISION;
- (2) INSTRUCTING THE TRUSTEE
- (3) DISAPPROVING MODIFICATION OF THE TRUST

[Probate Code §§ 17200(a),(b)(3), (6), (13)]

Date:
Time:
Department:
Judge:

Stanley Mosk Courthouse
111 N. Hill St.
Los Angeles, CA 90012

1 5. Petitioner believes that the 2010 restated trust (hereinafter, the “Trust”) under which
2 Petitioner has been acting as Trustee is a valid trust.

3 6. Lisa Marie Presley died on January 12, 2023, in Los Angeles County, California.

4 7. After Lisa Marie Presley’s death, Petitioner discovered that a document existed
5 pertaining to be an amendment to the Trust dated March 11, 2016 (the “Purported 2016
6 Amendment”). The Purported 2016 Amendment removed and replaced Petitioner and Barry as both
7 current and successor Trustees of the Trust with Lisa Marie Presley as the current Trustee and
8 naming Lisa Marie Presley’s daughter, Riley Keough (“Riley”), and son, Benjamin Keough
9 (“Benjamin”), as successor co-Trustees of the Trust upon Lisa Marie Presley’s incapacity and/or
10 death.

11 8. There are many issues surrounding the authenticity and validity of the Purported
12 2016 Amendment, including, but not limited to: (1) the Purported 2016 Amendment was never
13 delivered to Petitioner during Lisa Marie Presley’s lifetime as required by the express terms of the
14 Trust; (2) the date of the Purported Trust Amendment was added via .pdf on March 14; (3) the
15 Purported 2016 Amendment, allegedly signed by Lisa Marie Presley, misspells her mother’s name;
16 (4) no provisions of the Purported 2016 Amendment appear on the signature page; (5) Lisa Marie
17 Presley’s signature appears inconsistent with her usual and customary signature; and (6) the
18 Purported 2016 Amendment was neither witnessed nor notarized.

19 9. Petitioner has not resigned as a Trustee of the Trust and continues to serve in such
20 capacity.

21 10. Based on the foregoing, Petitioner contends that the Purported 2016 Amendment is
22 an invalid modification of the restated 2010 trust and that the restated 2010 trust is the authoritative
23 and controlling document. As such, Petitioner respectfully requests an order from this court
24 determining that the Purported 2016 Amendment is invalid, confirming the validity and existence
25 of the restated 2010 Trust, and confirming that Petitioner is a current Trustee of the Trust.

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III.

PETITION FOR ORDER DETERMINING THE VALIDITY OF A TRUST PROVISION

(Probate Code §§ 17200(b)(3))

11. Petitioner incorporates herein by reference the allegations contained in Paragraphs 1 through 10 above.

12. Applicable Law. An order on this Petition is permitted by applicable statutes and case law, specifically Probate Code § 17200. Under Probate Code § 17200, a probate court has jurisdiction over both inter vivos and testamentary trusts to entertain petitions for instructions regarding the validity (and thus, invalidity) of trust agreements or amendments. In *Conservatorship of Irvine* (1995) 40 Cal. App. 4th 1334, the trustee sought instructions from the probate court regarding whether an amendment was valid, and the petition thus fell within at least three specific jurisdictional provisions under Probate Code § 17200, namely (1) determining the validity of a trust provision, (2) instructing the trustee, and (3) approving (or disapproving) a modification of a trust (Probate Code § 17200, subd. (b)(3), (6) & (13)). The court further concluded that even if the petition did not fall within the literal provisions of Probate Code § 17200(b), it nevertheless would fall within the general jurisdiction of probate courts under Probate Code §§ 17000 and 17200, for proceedings concerning the internal affairs of a trust or to determine the existence of a trust (and presumably, the existence of an amendment to that trust).

13. Creation of Trust. January 29, 1993, the Decedent executed a declaration of trust entitled The Promenade Trust. On January 27, 2010, the Decedent executed an Amendment to and Complete Restatement of the Promenade Trust, as Settlor, and naming Barry Siegel and Priscilla Presley as co-Trustees. Both Barry Siegel and Priscilla consented to serve as Co-Trustees on February 8, 2010, and have continued to serve in such capacity at all times since then. A true and correct copy of the Trust is attached hereto as Exhibit A and is incorporated herein by this reference.

14. Successor Trustees. The successor Trustees of the Trust are identified in Section B, Article 1, Paragraph 1.1 of the Trust, which provides in pertinent part as follows:

“1.1 Successor Trustee. Except as otherwise specifically provided to the contrary below, the following shall act as successor Trustee, in the order and manner provided below, of all

1 trusts established under this instrument, whether during my lifetime or after my death.

2 **1.1.1** If either Barry J. Siegel ("Barry") or Priscilla Presley
3 ("Priscilla") is unable, is unwilling, or ceases to act as Trustee, the following shall act as Trustee in
4 the order named below:

5 **1.1.1.1** Either Barry or Priscilla acting together with
6 Daniel Riley Keough ("Riley"), as Cotrustees;

7 **1.1.1.2** Both Riley and the appointee or appointees of
8 the last of Barry and Priscilla to act, acting together, as Cotrustees;

9 **1.1.1.3** Riley, acting alone, as sole Trustee;

10 **1.1.1.4** Such one or more of Barry, Priscilla or Riley
11 who are able to act, acting together with a corporate Trustee appointed pursuant to Paragraph 1.1.7
12 below, acting together as Cotrustees; or

13 **1.1.1.5** The corporate Trustee appointed pursuant to
14 Paragraph 1.1.4 above, acting alone as sole Trustee.

15 **1.1.2** If any Trustee is unable, is unwilling, or ceases to act, the next
16 of them who is available shall act. The right to appoint a Cotrustee or Cotrustees to serve with the
17 person making the appointment and the right to appoint a series of successor Trustees and
18 Cotrustees. All appointments shall be made by written instrument signed by the person making such
19 appointment.

20 **1.1.3** Notwithstanding the provisions of Paragraph 1.1.1 above, if
21 during my lifetime an interest in a professional practice or regulated business, including but not
22 limited to a corporation, partnership, or limited liability company is an asset of the trust estate, I
23 shall act as sole Trustee with respect to such interest.

24 **1.1.4** Notwithstanding the provisions of Paragraph 1.1.1. above,
25 each child of mine who has attained age 30 and whose then current right of withdraw under Article
26 7 above of Section A, shall have the right to act as Cotrustee of such child's trust crated under the
27 Promenade Exempt Trust and the Promenade Descendants Trust. Upon receipt of a written
28 instrument signed by the child after the child attains said age and delivered to the then acting Trustee
or Cotrustees, the child (or the child's appointee or appointees) shall act as Cotrustee with the then
acting Trustee or Cotrustees. If neither the child nor any appointee of the child is acting, the
successor Trustees named in Paragraph 1.1.1 above shall act as Trustee in the order named.

1.1.5 Notwithstanding the provisions of Paragraph 1.1.1. above,
each child of mine who has attained age 35 and whose then current right of withdrawal under Article
7 above of Section A has not been postponed by the Trustee under Paragraph 8.1 above of Section
A, shall have the right to act as sole Trustee of such child's trust created under the Promenade
Exempt Trust and the Promenade Descendants Trust. Upon receipt of a written instrument signed
by the child after the child attains said age and delivered to the then acting Trustee, the then acting
Trustee shall cease to act as Trustee in favor of the child or the child's appointee or appointees. If

1 neither the child nor any appointee of the child is acting, the successor Trustees named in Paragraph
1.1.1 above shall act as Trustee in the order named.”

2 As stated above, on February 8, 2010, Petitioner and Barry executed Acceptance and
3 Acknowledgement by Trustees, consenting to serve as co-Trustees of the Trust. Petitioner believes
4 that Barry has already or will soon resign as a co-Trustee of the Trust. Accordingly, in such event,
5 Riley would become a co-Trustee with Petitioner with respect to the Trust and all trust created
6 thereunder. Notwithstanding the foregoing, since Riley is over the age of 30, she may act as a Co-
7 Trustee of her subtrust upon delivering a written instrument signed by her consenting to act in such
8 capacity.

9 15. The Purported 2016 Amendment. As stated above, after the Decedent’s death,
10 Petitioner discovered that there was a document purporting to be an amendment to the Trust.
11 Petitioner recently received a .pdf file of the Purported 2016 Amendment allegedly dated March 11,
12 2016. Petitioner notes that the .pdf file shows a comment by “rbernste” dated March 14, which
13 inserts the number 11 in the date of the document, March 11, 2016. Without this insertion, the
14 document appears to be dated “March ____, 2016.” Also, the signature page of the Purported 2016
15 Amendment does not contain any text of the amendment, which can present a higher risk for fraud.
16 Also, the Decedent’s signature appears to be inconsistent with the Decedent’s usual and customary
17 signature. Lastly, the original version of the Purported 2016 Amendment has not yet been located.
18 Since the original Purported 2016 Amendment has not been located, it is presumed that it was
19 destroyed.

20 16. Exclusive Method of Amendment or Revocation. Section A, Article 1 of the Trust
21 sets forth the exclusive method of amending or revoking the Trust, providing as follows:

22 “By a written instrument (other than a Will) that expressly refers to
23 this trust and is signed by me **and delivered to the Trustee during**
24 **my lifetime**, I make revoke the trust in whole or in part, may amend
25 any of its provisions, and may cancel any amendment. **The**
26 **foregoing method shall be the exclusive method by which this**
27 **trust may be revoked or amended, or any amendment cancelled.**
28 Any amendment affecting the powers, duties, or compensation of
the Trustee shall be effective only upon the Trustee’s acceptance of
said amendment. Except as otherwise specifically provided to the
contrary, all provisions of this instrument shall be irrevocable and
nonamendable after my death” (emphasis added).

1 Probate Code §15401 sets forth the method of revocation of a trust by a settlor, providing, in
2 pertinent part:

3 “(a) a trust that is revocable by the settlor or any other person may
4 be revoked in whole or in part by any of the following methods:

5 (1) **By compliance with any method of revocation
6 provided in the trust instrument.**

7 (2) By a writing, other than a will, signed by the settlor or
8 any other person holding the power of revocation and
9 **delivered to the trustee during the lifetime of the
10 settlor or the person holding the power of revocation. If
11 the trust instrument explicitly makes the method of
12 revocation provided in the trust instrument the
13 exclusive method of revocation, the trust may not be
14 revoked pursuant to this paragraph**” (emphasis
15 added).

16 Probate Code §15401 is clear in that if the trust instrument explicitly makes the method of
17 revocation (or amendment) provided in the trust instrument the exclusive method of revocation, the
18 trust must be amended in that way. Here, the Trust specifically states that the settlor could only
19 amend the trust by a written instrument (other than a Will) that expressly refers to the Trust, is signed
20 by the settlor, and delivered to the Trustee during the settlor’s lifetime. While the Purported 2016
21 Amendment is a writing other than a will, which references the Trust, and is allegedly signed by the
22 Decedent, it was not delivered to the Trustee during the Decedent’s lifetime. Since the Purported
23 2016 Amendment failed to meet the express requirements to amend the Trust, the 2016 Amendment
24 did not, in fact, amend the Trust.

25 In *Rosenauer v. Title Insurance & Trust Co.* (1973) 30 Cal.App. 3d 300, the decedent’s trust
26 provided that “*during her lifetime*,” the trustor could revoke it by “an instrument in writing executed
27 by the Trustor and delivered to the Trustee, however, neither the will nor any other form of written
28 revocation was delivered to the trustee during the trustor’s lifetime (*Ibid.*) The court in *Rosenauer*
quoted on the Restatement of Trusts, section 330, comment (j): “If the settlor reserves a power to
revoke the trust only in a particular manner or under particular circumstances, he can revoke the
trust only in that manner or under those circumstances” (*Rosenauer, supra*, 30 Cal.App. 3d at p. 303

1 quoting Rest.2d Trust, §330, com. (j), p. 139).

2 Similarly, the court in the *Estate of Lindstrom* (1987) 191 Cal.App.3d 375, also dealt with
3 the same issue, concluding that during her lifetime, the trustor could amend, alter, or revoke it ‘by
4 written instrument filed with the Trustee... (*Id.* at p. 386). In *Lindstrom*, the Trustee was a third
5 party.

6 In *Gardenhire v. Superior Court* (2005) 127 Cal. App. 4th 882, the court dealt with the issue
7 of whether a provision in a trust authorizing revocation upon “written notice” authorized revocation
8 by a will. The court stated that “the results in *Rosenauer* and *Lindstrom* are unquestionably correct.
9 In each case, the document purporting to revoke the trust was not delivered to the trustee during the
10 trustor’s lifetime as expressly required by the trust. Therefore, the attempts to revoke by will failed
11 because the trustors had not complied with the terms of the trust” (*Id.* at p. 890)

12 In each of *Rosenauer* and *Lindstrom*, the document purporting to revoke the trust was not
13 delivered to the trustee during the trustor’s lifetime as expressly required by the trust, and thus, were
14 invalid, which is consistent with Comment (j) of the Restatement of the Law, Trusts 2d, §330.

15 In the instant matter, the Purported 2016 Amendment was not delivered to Petitioner during
16 the Decedent’s lifetime. As a result, the Purported 2016 Amendment fails to comply with the express
17 procedure for amending the Trust, and is therefore invalid.

18 **IV.**

19 **NOTICE**

20 17. Notice. The names and addresses of the persons entitled to notice of this Petition
21 pursuant to Probate Code § 17201, California Rules of Court, Rule 7.902, and Los Angeles Local
22 Rule 4.36 are as follows:

<u>Name & Address</u>	<u>Age</u>	<u>Relationship</u>
Priscilla Presley	Adult	Co-Trustee/Mother of the decedent
Barry J. Siegel	Adult	Co-Trustee
Danielle Riley Keough	Adult	Heir/Beneficiary

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Finley Aaron Love Lockwood	Minor	Heir/Beneficiary
Harper Vivienne Ann Lockwood	Minor	Heir/Beneficiary
Michael Lockwood	Adult	Parent and Guardian of Finley Aaron Love Lockwood and Harper Vivienne Ann Lockwood
Benjamin Storm Keough	Deceased	Heir/Beneficiary
Presley Charitable Foundation	Entity	Contingent Beneficiary

Notice of time and place of the hearing on this Petition will be given to all interested parties pursuant to Section 17203 of the California Probate Code.

V.
CONCLUSION

18. Based on the foregoing, the Purported 2016 Amendment should be deemed invalid and the Trust, as amended and completely restated in 2010 is the controlling and authoritative document and its terms administered.

WHEREFORE, Petitioner prays for an order as follows:

- 1. All notices required have been given as required by law;
- 2. Determining the Purported 2016 Amendment as being an invalid modification of The Promenade Trust dated January 29, 1993, as Amended and Restated on January 27, 2010;
- 3. Determining that The Promenade Trust dated January 29, 1993, as Amended and Restated on January 27, 2010, is currently in effect and controlling, and its terms are to be administered by the Trustees thereof;

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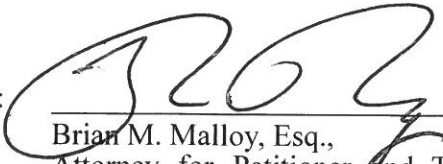
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- 4. Confirmation that Petitioner is a Trustee of the Trust.
- 5. For such other and further orders as the Court may deem just and proper.

Respectfully submitted.

RJS LAW

Dated: 01/26/2023

By: 

Brian M. Malloy, Esq.,
Attorney for Petitioner and Trustee,
Priscilla Presley

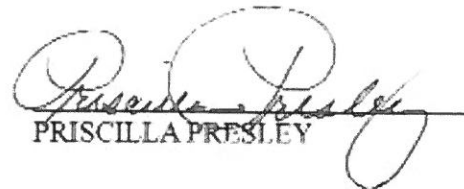
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VERIFICATION

I, PRISCILLA PRESLEY, am the Petitioner in the above-entitled proceeding. I have read the foregoing Petition For Order Petition For Order: (1) Determining the Validity of a Trust Provision; and (2) Instructing the Trustee; and (3) Disapproving Modification of the Trust and the attachments hereto and know the contents thereof. The same is true of my own knowledge, except as to those matters that are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: Jan 25, 2023


PRISCILLA PRESLEY

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Exhibit A

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Exhibit B