

Matter of Morris

2022 NY Slip Op 32163(U)

July 7, 2022

Surrogate's Court, New York County

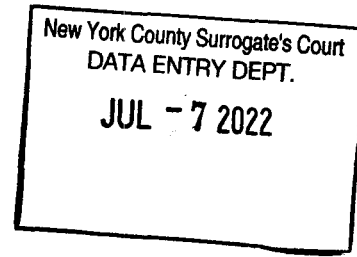
Docket Number: File No. 1959-2364/H

Judge: Rita Mella

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This opinion is uncorrected and not selected for official publication.

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK



-----X
Petition of Truist Bank, Successor-in-Interest to SunTrust
Bank, Trustee of the Trust Created under Article FIFTH (B)
of the Will of

ALFRED HENNEN MORRIS,

DECISION and DECREE
File No.: 1959-2364/H

Deceased,

for the Primary Benefit of Alfred Hennen Morris, II, for
Leave to Resign.

-----X
Petition of Alfred Hennen Morris, II, Primary Beneficiary
of the Trust Created under Article FIFTH (B) of the Will of

ALFRED HENNEN MORRIS,

File No.: 1959-2364/I/J

Deceased,

for the Appointment of Diversified Trust Company, Inc.,
as Successor Trustee and for Permission to Transfer the
Situs of the Trust to Tennessee.

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M E L L A, S.:

Two petitions have been filed with respect to the trust created under Article FIFTH (B) of the will of Alfred Hennen Morris, who died in 1959, for the primary benefit of his grandson, Alfred Hennen Morris, II: one by Truist Bank, successor-in-interest to SunTrust Bank to which successor letters of trusteeship were granted on September 30, 2019, for leave to resign; and the second by the primary beneficiary for the appointment of Diversified Trust Company, Inc., as further successor trustee and for permission to transfer the trust situs to Tennessee because, as the primary beneficiary avers: “While Petitioner lives in Connecticut, all of his immediate family” — including the presumptive and contingent remainder beneficiaries of the trust — “and all of his financial interests are located in Tennessee,” and “Management of the family’s assets

is through the family office located in Tennessee.” The primary beneficiary has consented to the petition of Truist Bank; the presumptive remainder beneficiary — and the first generation of contingent remainder beneficiaries — have consented to both petitions. The value of the trust, as of May 31, 2020, was \$569,369.

Each Petitioner alleges that, in light of the acquisition of SunTrust Bank by BB&T Bank, now known as Truist Bank, the primary beneficiary and his family “are in the process of moving their assets [from SunTrust Bank] to Diversified Trust Company, Inc.,” and that: “With the broader relationship[,] Diversified Trust will be able to coordinate the overall investment policies of the extended family and of the trusts established for their benefit, and make administration of the Trust more efficient.”

Robert E. W. Lineberger, General Counsel of Diversified Trust Company, Inc., has averred that the law of Tennessee — specifically, TN Code Ann. 35-50-107 [a] [2] [A] — permits a domestic corporation, authorized to act as a fiduciary in New York, to act as a fiduciary in Tennessee (*see* NY Banking Law 131 [3]). In addition, Lineberger has filed a copy of the Diversified Trust Company, Inc., charter, certified by the Tennessee Secretary of State (*see* NY Banking Law 131 [3]).

On March 27, 2020, the Seventh Circuit Court of Davidson County, Tennessee (Probate Division) issued an order whereby it agreed to accept jurisdiction over the trust upon approval by this court of the requested change of situs.

Decedent's will does not bar the transfer of situs of any trust created thereunder.¹

Moreover, transfer of the situs of the trust likely will facilitate the administration of the trust (*see Matter of Weinberger*, 21 AD2d 780 [1st Dept 1964]).

The petition of Truist Bank for leave to resign as trustee is granted. The petition of the primary beneficiary is granted to the extent that Diversified Trust Company, Inc., is appointed successor trustee, and the situs of the trust shall be transferred to the State of Tennessee (*see Matter of Hudson*, 29 AD2d 145 [3d Dept 1968], *affd without op* 23 NY2d 834 [1969]; *Matter of Forsch*, NYLJ, Feb. 29, 2016, at 18, col 4 [Sur Ct, NY County]). The request of the primary beneficiary that “The Court permit the assets of the Trust to be removed from New York State and that no bond be required in connection with such removal” is dismissed as moot. This decision constitutes the order of the court.

It is hereby:

ORDERED, ADJUDGED, and DECREED that Truist Bank, successor-in-interest to SunTrust Bank, is permitted to resign as trustee of the trust created under Article FIFTH, Paragraph (B), of the will of Alfred Hennen Morris for the primary benefit of Alfred Hennen Morris, II; successor letters of trusteeship heretofore issued to it are revoked; and it is further

ORDERED, ADJUDGED, and DECREED that Diversified Trust Company, Inc., is appointed further successor trustee, in the place and stead of the resigning trustee, Truist Bank;


¹ If anything, decedent appears to have contemplated a possible change in situs. Article THIRTEENTH of the will reads, in part: “Any person or corporation duly appointed in any jurisdiction to administer any trust under this my Last Will and Testament shall have . . . all the powers which are given in this my Last Will and Testament to the trustees of such trust. ”

successor letters of trusteeship shall issue to Diversified Trust Company, Inc., upon its duly qualifying according to law; and it is further

ORDERED, ADJUDGED, and DECREED that the situs of the trust is transferred to the State of Tennessee, and that the assets held in trust be permitted to be moved to the custody of Diversified Trust Company, Inc., of Nashville, TN; and it is further

ORDERED, ADJUDGED, and DECREED that Truist Bank shall account for its proceedings as (former) successor trustee within a reasonable period of time.

Dated: July 7, 2022



S U R R O G A T E