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Every month I summarize the most important probate cases in Michigan. Now I publish my summaries as a service to colleagues and friends. I hope you find these summaries useful and I am always interested in hearing thoughts and opinions on these cases.

PROBATE LAW CASE SUMMARY

BY: Alan A. May Alan May is a shareholder who is sought after for his experience in guardianships, conservatorships, trusts, wills, forensic probate issues and probate. He has written, published and lectured extensively on these topics.

He was selected for inclusion in the 2007-2017, 2020 issues of *Michigan Super Lawyers* magazine featuring the top 5% of attorneys in Michigan and has been called by courts as an expert witness on issues of fees and by both plaintiffs and defendants as an expert witness in the area of probate and trust law. Mr. May maintains an "AV" peer review rating with Martindale-Hubbell Law Directory, the highest peer review rating for attorneys and he is listed in the area of Probate Law among Martindale-Hubbell's Preeminent Lawyers. He has also been selected by his peers for inclusion in *The Best Lawyers in America*® 2020 in the fields of Trusts and Estates as well as Litigation – Trusts & Estates (Copyright 2018 by Woodward/White, Inc., of SC). He has been included in the Best Lawyers listing since 2011. Additionally, Mr. May was selected by a vote of his peers to be included in *DBusiness* magazine's list of 2017 Top Lawyers in the practice area of Trusts and Estates. Kemp Klein is a member of LEGUS a global network of prominent law firms.

He is a member of the Society of American Baseball Research (SABR).

For those interested in viewing previous Probate Law Case Summaries, go online to: http://kkue.com/resources/probate-law-case-summaries/.

He is the published author of "Article XII: A Political Thriller" and
"Sons of Adam," an International Terror Mystery.
(available on Amazon)

DT: June 23, 2021
RE: ***In re Howe Trust***

"Alan, you cannot write about baseball all your life"
- Mrs. Pollinger
- 12th Grade English Comp
- Mumford High - 1959

BASEBALL

More Tyger Incompetence

When William Blake composed "The Tyger", he wonders whether the same creator of the "Tyger" could have created the lamb. Well, he did when he created the pizza man and his amanuensis, Al Avila.

In the last article of doom, we talked about the wonderful exchange of Castellanos for some lesser folk. Today, we speak of J.D. Martinez for Daniel Lugo, Sergio Alcantara and Jose King.

J.D. – In 2021, he has 13 dingers, and in the year of the pitcher, (things might change if the goo be gone), he bats .308; 7th in the American League wherein there are but 9 who boast an average over .300. To show his maturation, the Bengals paid him $6,750,000.00, and he makes $20,000,000.00 with the Red Sox. J.D. plays near errorless baseball and ranks 17th in lifetime batting average among active players.

And what of amanuensis Al's three little lambs?

Dawel Lugo – This chap hit 7 dingers in three years of the Minor heapers. His batting average in the Stix was .236. He was granted Free Agency in November (11/2/2020). Did he get a stimulus check?

Sergio Alcantara batted .143 in the Minors. Had more strike outs than hits. Traded to the Pale Sox.

Jose King will never wear a batting crown. Batted .217 for Western Michigan one year and .209 in another. He has a total of 20 hits and 37 whiffs. He was demoted from an A+ League to "A" and plays in Lakeland, Florida where he had played but 2 games. Two hits in 8 trips, 4 strike outs, listed 4th in the second base depth charts.

They are not Blake's lambs but Thomas Harris'; they are silent. Might as well trade Avila for Hannibal Lecter.

Caveat: MCR 2.119, MCR 7.212 and 7.215 take effect May 1, 2016 on propriety of citing unpublished cases

REVIEW OF CASE:

RE: *In re Howe Trust*

- Interested Person

This is a difficult analysis to compose; not because the Court of Appeals reached the wrong decision, but because of the manner in which they reached it.

Let us proceed. Assume three trusts, for simplicity, A, B and C. "B" and "C" are family trusts which pour over to "A" upon the death of the primary beneficiary of "A". The trustee of "B" and "C", George Rizik, sought supervision in "A", trustee removal.

Rizik claimed to be an interested party because "B" and "C" trusts poured over the "A", and, therefore, "A" needed proper administration.

The lower Court granted supervision, removed the fiduciary and appointed a new one.

The Court of Appeals did the following:

Interested Person.

The Court of Appeals spends a great deal of effort determining Rizik not to be an interested person and then proceed to say the lower Court had jurisdiction to proceed because an interested person joined Rizik as petitioner.

This reviewer believes this determination was incorrect for the following reasons.

The Court correctly cited *Brody* that the inquiry into interested party is "decidedly flexible and fact specific". *Brody* goes on to say that MCR 5.125(33)(D) unambiguously provides that the Probate Court must see if someone is interested beyond the statutes contained in MCL 700.1105(C) delineate. The Court of Appeals cites *Foster* and says that Rizik had no "legally protected interest that was in jeopardy of being adversely affected." These are words that add to the statute's promogulated examples, not a limitation of them.

Should a fiduciary who has a duty to pay another fiduciary be interested in whether that fiduciary not appointed by a Court be suitable? Suppose that fiduciary died and no successor was named. "Who do I pay Judge?" Suppose he is an embezzler, insane, in jail. Since the trusts are liable for debts above Probate assets under MCL 7605, shouldn't one trustee be interested if the trustee of another trust is committing waste?

Other Issue

The remand to further determine suitability and make a record as set forth by the Court was understandable.

Procedural error. The Court of Appeals spends a majority of its ruling saying why Rizik is not an interested party, but as stated above, the lower Court had jurisdiction because an interested person paired with Rizik. Thus, the issue became moot. This reviewer knows of no exception to the "mootness" rule that allow an Appellate Court to issue an Opinion. Why go through an analysis and say the error was harmless? Why not say because of the pairing, the issue is moot and, therefore, the Court shall make no determination.

Substantive error. MCL 700.1105 defines "interested person."

1. Note the use of the word person, not party. It's a broader term in normal practice.
2. The above section defines the personage who fit in, but in its segue clearly says "but is not limited to". This itself is defined in the last sentence:

"Identification of interested persons may vary from time to time and shall be determined according to the particular purposes of, the matter involved in, a proceeding, and by Supreme Court rules."

The statute implies a certain amount of discretion in the lower Court as the facts and circumstances exist. Thus, one should ask in light of the circumstances Rizik pleaded, did the lower Court abuse its discretion? With utmost respect to the Court of Appeals, this reviewer thinks not.

STATE OF MICHIGAN

COURT OF APPEALS

In re BEVERLY M. HOWE REVOCABLE TRUST.

THOMAS HOWE,

Appellant,

v

GEORGE F. RIZIK, II, and KRAIG SIPPELL, as Trustee of the BEVERLY M. HOWE REVOCABLE TRUST and Guardian of BEVERLY M. HOWE,

Appellees,

and

STEVEN HOWE,

Other Party.

UNPUBLISHED
May 27, 2021

No. 354458
Genesee Probate Court
LC No. 2020-215114-TV

Before: CAMERON, P.J., and BORRELLO and REDFORD, JJ.

PER CURIAM.

Appellant Thomas Howe (Thomas) appeals the probate court's decision to order that the administration of the Beverly M. Howe Revocable Trust be supervised and that appellee Kraig Sippell (Sippell) be appointed trustee. We affirm in part, vacate in part, and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

I. BACKGROUND

In August 1996, Beverly M. Howe (Beverly) created the Beverly M. Howe Revocable Trust (the Revocable Trust). In 2001, Beverly's husband, Wallace Howe, died. In December

2011, Beverly amended and "restated" the Revocable Trust. Beverly was named trustee, Thomas was named successor trustee, and Steven Howe (Steven) was named alternate successor trustee.[1] Thereafter, in September 2014, Beverly created the Beverly M. Howe Family Trust and the Wallace Howe Family Trust (collectively "the Family Trusts") by executing separate trust agreements. Steven and Thomas were named cotrustees and beneficiaries. The Family Trusts were irrevocable.

In 2018, a guardianship petition was filed concerning Beverly, and the probate court appointed Sippell as Beverly's guardian. Also in 2018, petitions were filed in the probate court concerning the Family Trusts. In relation to those proceedings, Thomas and Steven were removed as trustees, and appellee George F. Rizik, II (Rizik) was appointed to serve as the trustee of the Family Trusts.

In May 2020, Rizik petitioned the probate court to supervise the administration of the Revocable Trust. Rizik alleged that subject-matter jurisdiction existed and that he was an "interested person" given his status as trustee of the Family Trusts. Rizik also alleged that Beverly was "not capable of acting as trustee" of the Revocable Trust. Rizik moved the probate court to order that the administration of the Revocable Trust would be supervised, to remove Beverly as trustee, and to appoint Sippell as "substitute or successor trustee[.]" Thomas opposed the petition, arguing that Rizik lacked standing under the relevant statutes and court rules. Thomas further argued that the petition was moot because, on September 16, 2014, Beverly amended the Revocable Trust agreement. According to Thomas, the amendment reflected that Beverly, Thomas, and Steven were cotrustees.

On May 28, 2020, the probate court heard oral argument on the petition. At oral argument, Rizik provided additional information as to why he had filed the petition. Specifically, after explaining to the probate court that Beverly had a life estate interest in certain real property that could be terminated by the trustee of the Revocable Trust, Rizik argued that the property should be sold and that the proceeds should be used to provide for Beverly's care and maintenance.[2] Rizik also argued that, upon the death of Beverly, he was required to transfer the remaining assets in the Family Trusts to the Revocable Trust. While Thomas strenuously opposed the relief sought in the petition, Steven agreed that the relief sought should be granted. At the close of oral argument, the probate court concluded that Rizik had standing to file the petition. The probate court also determined that it was appropriate to appoint Sippell as trustee of the Revocable Trust because Thomas and Steven were unable to act as cotrustees given their past behavior. On June 2, 2020, the probate court entered an order that reflected its rulings.

Thomas filed a motion for reconsideration, which the probate court denied in a July 23, 2020 opinion and order. In the opinion and order, the probate court concluded that it had broad authority under MCR 5.125(D) to determine whether an individual had standing. The probate court also concluded that Rizik "had more than a passing interest in bringing to the Courts [sic] attention the existence of the trust, state of the management of the trust, and interests owned by

[1] Thomas and Steven are Beverly's sons.

[2] Beverly was a beneficiary under the Revocable Trust.

the trust in property affecting Beverly." Additionally, the probate court concluded that appointing Sippell as trustee did not amount to palpable error given the "verbally and physically violent relationship between Thomas and Steven." This appeal followed.

II. STANDING

Thomas argues that the probate court erred by concluding that Rizik had standing to file the petition. We agree but conclude that the error was harmless.

A. STANDARDS OF REVIEW

Generally, this Court reviews appeals from a probate court decision on the record, not de novo. *In re Temple Marital Trust*, 278 Mich App 122, 128; 748 NW2d 265 (2008). Nonetheless, this Court reviews de novo questions of statutory interpretation and standing. *In re Casey Estate*, 306 Mich App 252, 256; 856 NW2d 556 (2014). "The proper interpretation and application of a court rule is [also] a question of law, which we review de novo." *Henry v Dow Chem Co*, 484 Mich 483, 495; 772 NW2d 301 (2009). "The interpretation of a trust agreement is also a question of law reviewed de novo on appeal." *Bill & Dena Brown Trust v Garcia*, 312 Mich App 684, 693; 880 NW2d 269 (2015).

B. ANALYSIS

Thomas argues that subject-matter jurisdiction was not invoked because Rizik lacked standing to file the petition. "Standing is the legal term used to denote the existence of a party's interest in the outcome of the litigation; an interest that will assure sincere and vigorous advocacy." *Allstate Ins Co v Hayes*, 442 Mich 56, 68; 499 NW2d 743 (1993) (quotation marks and citations omitted). In general, "to have standing, a party must have a legally protected interest that is in jeopardy of being adversely affected." *In re Foster*, 226 Mich App 348, 358; 573 NW2d 324 (1997). A party bringing a claim

> cannot rightfully invoke the jurisdiction of the court to enforce private rights, or maintain a civil action for the enforcement of such rights, unless one has in an individual or representative capacity some real interest in the cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy. [*Bowie v Arder*, 441 Mich 23, 42-43; 490 NW2d 568 (1992) (quotation marks and citation omitted).]

Importantly, a cause of action provided to a litigant by law may establish standing. *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372; 792 NW2d 686 (2010).

The probate court is a court of limited jurisdiction and derives all of its powers from statutes. *Manning v Amerman*, 229 Mich App 608, 611; 582 NW2d 539 (1998). In this case, there is no dispute that the probate court had subject-matter jurisdiction over the administration of the Revocable Trust, MCL 700.1302(b), and could appoint or remove a trustee, MCL 700.1302(b)(*i*). However, because MCL 700.7201(2) provides that an "interested person" is entitled to invoke the probate court's jurisdiction with respect to the administration of a trust, it is necessary to consider whether Rizik qualified as an "interested person" at the time he filed the petition. We conclude that he did not.

MCL 700.1105(c) defines "interested person" as follows:

> "Interested person" or "person interested in an estate" includes, but is not limited to, the incumbent fiduciary; an heir, devisee, child, spouse, creditor, and beneficiary and any other person that has a property right in or claim against a trust estate or the estate of a decedent, ward, or protected individual; a person that has priority for appointment as personal representative; and a fiduciary representing an interested person. Identification of interested persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, a proceeding, and by the supreme court rules.

Sippell does not argue that Rizik fits within any of the examples of "interested person" contained in MCL 700.1105(c). Rather, Sippell notes that the second sentence of MCL 700.1105(c) provides that, "[i]dentification of interested persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, a proceeding, and by the supreme court rules."

"Within Subchapter 5.100 of our court rules, which sets forth rules of pleading and practice that apply in probate court, our Supreme Court has promulgated MCR 5.125, which is captioned, 'Interested Persons Defined.' " *In re Rhea Brody Living Trust (On Remand)*, 325 Mich App 476, 484; 925 NW2d 921 (2018), vacated in part on other grounds 504 Mich 882 (2019). MCR 5.125(D) provides that "[t]he court shall make a specific determination of the interested persons if they are not defined by statute or court rule."

In *In re Rhea Brody Living Trust (On Remand)*, 325 Mich App at 486, this Court interpreted MCL 700.1105(c) and MCR 5.125 and concluded as follows:

> Read in concert, MCL 700.1105(c) and MCR 5.125 demonstrate that the interested-person inquiry is decidedly flexible and fact-specific. The identity of the interested persons can change not only over time but also depends on the nature of the proceedings and the relief requested. Moreover, MCR 5.125(D) unambiguously provides that there may be circumstances in which a probate court must determine whether an individual—one who does not qualify as an interested person under any of the statutory definitions or under the other subparts of MCR 5.125—nevertheless qualifies as an interested person under the facts presented in the given case.

In this case, the allegations in Rizik's petition concerning his status as an interested person are as follows:

> 1. I am the trustee of the Beverly M. Howe Family Trust[] and am the trustee of the Wallace Howe Family Trust. The court is in possession of the governing instruments for both of those trusts.
>
> 2. Beverly M. Howe ("Beverly") created The Beverly M. Howe Revocable Trust U/A/D August 28, 1996 (the "Trust") by execution of a trust agreement dated August 28, 1996 (the "Trust Agreement").

> 3. The governing instruments for [the] Beverly M. Howe Family Trust and the Wallace Howe Family Trust both provide that upon the death of Beverly M. Howe, the remaining trust assets shall be distributed to the Trust.

As already discussed, Rizik requested that the probate court grant supervised administration, remove Beverly as trustee, and appoint Sippell as trustee.

While Rizik alleged in the petition that "[t]he governing instruments for [the] Beverly M. Howe Family Trust and the Wallace Howe Family Trust both provide that upon the death of Beverly M. Howe, the remaining trust assets shall be distributed to the Trust," the portions of the trust agreements that are before this Court do not support this assertion. Rather, Article III, § 3.1(a) of the Beverly M. Howe Family Trust provides as follows: "Upon the death of Beverly M. Howe, regardless of who else survives, all of the undistributed net income and principal of this trust will be distributed pursuant to the terms of the Beverly M. Howe Trust dated August 28, 1996, as amended" (emphasis omitted). Article III, § 3.1(a) of the Wallace Howe Family Trust is nearly identical. Article III, § 3.2(c) of the Revocable Trust provides, in relevant part, as follows:

> DISTRIBUTION. At my death, all of the principal and undistributed net income of this trust (and all property passing into this trust as a result of said death) shall be held or distributed as follows:
>
> 100% shall be divided in equal shares between my two children and distributed outright, free of trust.

Consequently, while this matter does involve three trusts and while Rizik is the trustee of two of those trusts, there is no indication that Rizik has to be involved in the administration of the Revocable Trust after Beverly's death. Rather, based on the unambiguous language of the relevant trust agreements,[3] Rizik merely needs to implement relevant portions of the Revocable Trust agreement when distributing the assets remaining in the Family Trusts.

Next, Sippell argues that standing existed because "Beverly was in need of funds for her continued support, care and maintenance" and that Rizik, as trustee of the Wallace Howe Family Trust, had petitioned the probate court in that action "to terminate the trust so approximately $300,000 in funds could be used for Beverly's care." Additionally, Sippell argues that Rizik identified certain real property as "an asset of the 1996 Revocable Trust" to which "funds could be used to provide for Beverly's care" if it was sold. However, even if the Revocable Trust owned the property,[4] there is no indication that Rizik had a fiduciary duty to Beverly. Indeed, Rizik was

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[3] "A court must ascertain and give effect to the settlor's intent when resolving a dispute concerning the meaning of a trust. The settlor's intent is ascertained by looking to the words of the trust itself." *Bill & Dena Brown Trust*, 312 Mich App at 693 (quotation marks and citations omitted). "[A] court must enforce the plain and unambiguous terms of a trust as they are written." *Id.* at 694.

[4] Thomas and Sippell disagree over whether the Revocable Trust owned the real property referenced earlier in this opinion. Because the issue of ownership is not properly before us, we will not consider it.

not Beverly's guardian and was not the trustee of the Revocable Trust. See MCL 700.1104(e). While Sippell notes that he lacked "authority over the" real property until after the probate court granted the relief sought in Rizik's petition, Sippell arguably could have filed a petition for supervised administration of the Revocable Trust and for removal of Beverly as trustee. Indeed, Sippell was an interested person under MCL 700.1105(c) given that Sippell was the guardian of Beverly, who was trustee of the Revocable Trust and a beneficiary. See MCL 700.1105(c); MCL 700.1104(e).

In sum, while "MCL 700.1105(c) and MCR 5.125 demonstrate that the interested-person inquiry is decidedly flexible," *In re Rhea Brody Living Trust (On Remand)*, 325 Mich App at 486, Rizik did not have "a legally protected interest that [was] in jeopardy of being adversely affected," see *In re Foster*, 226 Mich App at 358, or "some real interest in the cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy," see *Bowie*, 441 Mich at 42 (quotation marks and citation omitted). Rather, the record establishes that Rizik was simply knowledgeable about the Family Trusts and the underlying family dynamics. Consequently, the probate court erred by determining that Rizik had standing to file the petition.

Nonetheless, we conclude that the probate court's error was harmless under the circumstances of this case. At the hearing on the petition, Steven's attorney stated that Steven joined the petition "if standing [was] an issue" and that Steven "fully consent[ed] to th[e] petition." Steven specifically requested that the probate court supervise the administration of the Revocable Trust and appoint either him or Sippell as trustee. Thus, Steven indicated at the May 28, 2020 hearing that he was joining Rizik's petition. Steven certainly had standing under MCL 700.1105(c) given that he was a beneficiary of the Revocable Trust. See MCL 700.1103(d)(*i*); MCL 700.7103(l)(*i*). Because Steven had standing and supported the relief that Rizik sought in the petition, the probate court's error was harmless. We will not reverse on the basis of harmless error. See MCR 2.613(A). See also *Ypsilanti Fire Marshal v Kircher*, 273 Mich App 496, 529; 730 NW2d 481 (2007).

III. APPOINTMENT OF TRUSTEE

Thomas next argues that the probate court abused its discretion by appointing Sippell as trustee.

A. STANDARDS OF REVIEW

"Issues of statutory interpretation present questions of law that this Court reviews de novo." *In re Temple Marital Trust*, 278 Mich App at 128. However,

> appeals from a probate court decision are on the record, not de novo. The [probate] court's factual findings are reviewed for clear error, while the court's dispositional rulings are reviewed for an abuse of discretion. The [probate] court abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes. [*Id*. (citations omitted).]

A finding is clearly erroneous "where there is no evidence to support it or there is evidence but this Court is nevertheless left with a definite and firm conviction that a mistake has been made."

Hill v City of Warren, 276 Mich App 299, 310; 740 NW2d 706 (2007) (quotation marks and citation omitted).

B. ANALYSIS

Thomas argues that the probate court abused its discretion when it held that Sippell, as opposed to Thomas, would serve as trustee of the Revocable Trust.

MCL 700.7706 provides, in relevant part, as follows:

> (1) The settlor, a cotrustee, or a qualified trust beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.
>
> (2) The court may remove a trustee if 1 or more of the following occur:
>
> (a) The trustee commits a serious breach of trust.
>
> (b) Lack of cooperation among cotrustees substantially impairs the administration of the trust.
>
> (c) Because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the purposes of the trust.
>
> (d) There has been a substantial change of circumstances, the court finds that removal of the trustee best serves the interests of the trust beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

There is no dispute that the probate court properly removed Beverly as trustee given that she was incapacitated at all relevant times. See MCL 700.7706(2)(c). Rather, Thomas argues on appeal that Rizik's petition did not request that Steven and/or Thomas be removed as trustees and that the probate court disregarded the terms of the Revocable Trust by appointing Rizik as trustee.[5]

Thomas's arguments concerning the probate court's appointment of Sippell disregards the fact that MCL 700.7706(1) grants the probate court discretion to remove a trustee "on its own initiative." See *Walters v Nadell*, 481 Mich 377, 383; 751 NW2d 431 (2008) ("the term 'may' is typically permissive," not mandatory). Even so, review of the record establishes that the probate

[5] Thomas argued that, under a September 2014 amendment, Beverly, Steven, and Thomas were named as cotrustees of the Revocable Trust. At oral argument on the petition, the probate court noted that Thomas had not attached the September 2014 amendment to his responsive pleading. Thomas agreed that the amendment was not contained in the record and offered to forward it to the other parties. Although Thomas argues on appeal that the amendment was filed after oral argument, it is not contained in the lower court record.

court in this case did not specifically indicate which of the grounds contained in MCL 700.7706(2) the court was relying upon when it removed Thomas and Steven as trustees. See *In re Gerald L Pollack Trust*, 309 Mich App 125, 163; 867 NW2d 884 (2015) (holding that, "[i]n MCL 700.7706(2), the Legislature comprehensively codified a detailed list of grounds containing specific requirements for the removal of a trustee").

Additionally, the probate court noted that it had previously held a hearing relating to a "physical altercation" that occurred between Thomas and Steven concerning the endorsement of a check. The probate court noted that Thomas and Steven were acting as cotrustees at the time of the altercation and that Beverly was injured as a result. While it appears that the probate court found that Thomas and Steven were unable to work together as cotrustees and that permitting them to serve as cotrustees would not be beneficial to Beverly, there is no record evidence to support these findings. Indeed, it is unclear when the hearing referenced by the probate court occurred and if it occurred in relation to the proceeding concerning the Revocable Trust. Given that proceedings were pending concerning Beverly's guardianship and the Family Trusts, it is entirely possible that the hearing occurred in a different proceeding. It is notable that the probate court referenced findings that it made in relation to the proceedings concerning the Family Trusts in its July 23, 2020 opinion and order.

Because there is no evidence in the record to support the probate court's finding that Thomas could not serve as trustee, the probate court clearly erred. See *Hill*, 276 Mich App at 310. We therefore vacate the portion of the June 2, 2020 order that appointed Sippell as trustee and remand the matter to the probate court for further proceedings. On remand, the probate court shall explain and rationalize the basis for its ruling. Specifically, the probate court must explain what evidence the court relied on when it determined that it was inappropriate for Thomas to serve as trustee of the Revocable Trust and how those findings relate to MCL 700.7706(2) with respect to the Revocable Trust.

Affirmed in part, vacated in part, and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Thomas C. Cameron
/s/ Stephen L. Borrello
/s/ James Robert Redford