

NOT FOR PUBLICATION

NO. 25780

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

IN THE MATTER OF THE PROTECTION OF THE PROPERTY
OF ELIZABETH A. ELSTNER, Protected Person
(Guardianship No. 97-0177)

and

IN THE MATTER OF THE RICHARD C. ELSTNER
REVOCABLE LIVING TRUST DATED JUNE 16, 1992, AS AMENDED
(Trust No. 99-0036)

and

IN THE MATTER OF THE ELIZABETH A. ELSTNER
REVOCABLE LIVING TRUST DATED JUNE 16, 1992,
(Trust No. 99-0037)

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT

SUMMARY DISPOSITION ORDER

(By: Lim, Acting C.J., Nakamura and Fujise, JJ.)

In these consolidated proceedings¹ for approval of final accounting, distribution of trust corpus and discharge of trustees, Respondent-Appellant Richard G. Elstner (Rick) appeals from the April 15, 2003 "Amended Judgment for Order Granting in Part and Denying in Part Petition for Order Approving Final Account, Distribution of Trust Estate and Discharge of Trustees

¹ The Petition for Instruction and Approval of Final Accounts in the Matter of the Richard C. Elstner Revocable Living Trust, T. No. 99-0036; In the Matter of the Elizabeth A. Elstner Revocable Living Trust, T. No. 99-0037 and the Petition for Approval of Final Accounts in the Matter of the Protection of the Property of Elizabeth A. Elstner, G. No. 97-0177.

E.M. RIMANDO
CLERK, APPELLATE COURT
STATE OF HAWAII

2006 JAN 24 AM 8:17

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The record does not support Rick's claim that the circuit court relied "solely" on the master's report in rendering its decision in the instant proceedings. The circuit court clearly considered the submissions and arguments of the parties, including affidavits submitted by Rick's accountants, in reaching its decision. Moreover, Rick has failed to identify any evidence that was proffered or submitted by him that the circuit court refused to consider. On this record, we cannot conclude that the manner in which the circuit court conducted its fact finding was an abuse of discretion.

Finally, Rick has failed to show that the procedures employed by the circuit court constituted a denial of due process. The record shows that Rick was afforded numerous opportunities to be heard and present arguments before the circuit court. In re Adams Estate, 257 Mich. App. 230, 234, 667 N.W. 2d 904, 906-07 (2003). For example, Rick filed memoranda, responded to the master's reports, and made arguments before the circuit court at several hearings. Accordingly, the circuit court did not deny Rick due process of law.

Therefore,

IT IS HEREBY ORDERED that the circuit court's April 15, 2003 "Amended Judgment for Order Granting in Part and Denying in Part Petition for Order Approving Final Account, Distribution of

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Trust Estate and Discharge of Trustees Filed Herein on May 24, 2002" is affirmed.

DATED: Honolulu, Hawai'i, January 24, 2006.

On the briefs:

Michael G.M. Ostendorp,
for Respondent-Appellant.



Acting Chief Judge

Daniel H. Case and
Frank T. Kanemitsu,
(Case Bigelow & Lombardi),
for Petitioners-Appellees.



Associate Judge



Associate Judge