

STATE OF MICHIGAN
COURT OF APPEALS

In re THERESA M. AFFELDT INTERVIVOS
TRUST.

ROBERT J. AFFELDT,

Petitioner-Appellant,

UNPUBLISHED
September 10, 2002

v

JAMES P. SMITH, JR., Trustee,

Respondent-Appellee.

No. 228072
Macomb Probate Court
LC No. 87-099328-TI

Before: Zahra, P.J., and Cavanagh and White, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I agree that petitioner did not adequately plead a claim for fraud. Petitioner did, however, request an accounting. Although petitioner received some accountings over the years, it is not asserted that he received accountings throughout the life of the trust. I would reverse that portion of the court's decision that denied petitioner an accounting for all years preceding 1996, and approve the final accounting based on an examination of post-1996 activities alone.

/s/ Helene N. White