



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-18-00003-CV**

ESTATE OF LINDA KATINA  
STATUM FROEHLE, DECEASED

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FROM PROBATE COURT NO. 1 OF TARRANT COUNTY  
TRIAL COURT NO. 2016-PR00096-1  
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**MEMORANDUM OPINION<sup>1</sup>**

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John Trebor Froehle attempts to appeal from the probate court's January 11, 2018 "Order Approving Account for Final Settlement." Because this order is not a final, appealable order, we will dismiss this appeal for want of jurisdiction.

Generally, appeals may be taken only from final judgments or interlocutory orders that are authorized by statute. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d

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<sup>1</sup>See Tex. R. App. P. 47.4.

191, 195, 200 (Tex. 2001). A judgment or order is final if it disposes of every pending claim and party. *Id.* at 205. But appeals in probate proceedings are an exception to the one-final-judgment rule. *de Ayala v. Mackie*, 193 S.W.3d 575, 578 (Tex. 2006) (op. on reh'g). The estates code provides that “[a] final order issued by a probate court is appealable to the court of appeals.” Tex. Est. Code Ann. § 32.001(c) (West 2014). In probate cases, it is possible to have more than one final, appealable order. *de Ayala*, 193 S.W.3d at 578. Appeals may be taken from orders rendered on discrete issues before the entire proceeding is concluded. *See id.* To determine whether a probate order is final and appealable, we consider whether the order adjudicates a substantial right and whether it disposes of all issues in a particular phase of the proceeding. *See id.* “An order that merely sets the stage for the resolution of proceedings is interlocutory and not appealable.” *In re Estate of Scott*, 364 S.W.3d 926, 927 (Tex. App.—Dallas 2012, no pet.); *see de Ayala*, 193 S.W.3d at 579.

Because an order approving an account for final settlement is an intermediate step toward closing the estate, it is not a final, appealable order. *See Scott*, 364 S.W.3d at 927–28 (concluding that order approving account for final settlement and authorizing distribution of the estate that specified additional steps necessary to close the estate, including the distribution of estate property pursuant to a determination of heirship and the filing of proper receipts and an application for discharge of the administrator and closure of the estate, was not final and appealable); *Bozeman v. Kornbilt*, 232 S.W.3d 261, 264 (Tex. App.—

Houston [1st Dist.] 2007, no pet.) (determining that order approving account for final settlement specifying additional steps for closing the estate, such as payment of attorney's fees awarded by a separate order, delivery of property and funds to the heirs according to a prior judgment of heirship, and filing an application to close the estate, was not final and appealable).

Here, the probate court's "Order Approving Account for Final Settlement" specifies additional actions that must be accomplished to finally settle and close the estate, including the payment of all claims, debts, and expenses; the distribution of estate property to Froehle after payment of all debts and expenses; the filing of proper receipts; and the administrator's filing an application for an order of discharge and for a declaration that the estate is closed. It is therefore not a final, appealable order. See *Scott*, 364 S.W.3d at 927–28; *Bozeman*, 232 S.W.3d at 264.

On March 15, 2018, we notified Froehle of our concern that we lack jurisdiction over this appeal and warned him that we would dismiss his appeal for want of jurisdiction unless, within ten days, he or any other party desiring to continue the appeal responded showing grounds for continuing the appeal. See Tex. R. App. P. 42.3(a), 44.3. More than ten days have passed, and we have not received a response.

Because the "Order Approving Account for Final Settlement" is not a final, appealable order, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f); *Scott*, 364 S.W.3d at 927–28; *Bozeman*, 232 S.W.3d at

264–65; see also *In re Estate of Aguilar*, No. 04-16-00250-CV, 2016 WL 3944817, at \*1 (Tex. App.—San Antonio July 20, 2016, no pet.) (mem. op.); *In re Estate of Waddell*, No. 13-13-00202-CV, 2013 WL 1932173, at \*1 (Tex. App.—Corpus Christi May 9, 2013, no pet.) (mem. op.).

/s/ Elizabeth Kerr  
ELIZABETH KERR  
JUSTICE

PANEL: KERR, PITTMAN, and BIRDWELL, JJ.

DELIVERED: May 31, 2018