

Agreement, incorporated by reference into the Account Application, provides that joint accounts are with right of survivorship, unless otherwise indicated. The Account Application did not indicate a contrary intention. We affirm.

FACTS

Michelyn Williams passed away on April 3, 2007. Mitchell Williams, her son, is the personal representative of Michelyn Williams's estate. The estate seeks the proceeds of a bank account held jointly by the deceased and Lori McPhillips.

On June 22, 1993, Michelyn Williams signed an "All-In-One Account Application" with McChord Credit Union, establishing an account. On August 4, 1993, Michelyn Williams signed a second All-In-One Account Application with McChord Credit Union, establishing an account with a different account number.¹ On the application, under the "Identification Signatures" section, Michelyn Williams's name is listed as the "Member." Below that are lines designated for an account holder's name, social security number, birth date, and driver's license number. McPhillips' name and information is filled in there. On August 10, 1993, McPhillips signed her name on the same application as a "Joint Owner or Trustee," six days after her mother had signed it. In the section titled, "Membership Information," there is also a handwritten notation that reads, "Make Joint."

The application contains a section titled "Account Ownership/Beneficiary

¹ While there are two separate account applications in the record with two slightly different account numbers, the parties both indicated at oral argument that the accounts were two parts of the same master account. This is reinforced by a March 2009 letter from the bank, referring to the joint account number, held by Michelyn Williams and McPhillips with right of survivorship. The three account numbers share the same first five digits, and we will treat them as one collective account, as the parties have done.

Options.” That section provides five different boxes that the signatories may check, if they wish to indicate the type of account they are applying for. Those options include “Individual,” “Joint Tenants With Right of Survivorship,” “Joint Trustee,” “Individual Trustee,” and “Uniform Gift to Minors.” This section was left completely blank, with all five of the boxes unchecked.

It was the practice of McChord Credit Union to provide a “Membership and Account Agreement” to account members in conjunction with their applications. Don Montague, an employee at the credit union, stated that he was unable to produce the prior edition of the card member agreement that was in effect during 1993, but he did state, “I can confirm the language with respect to joint accounts and rights of survivorship has not materially changed since the above referenced accounts were created.” The Membership and Account Agreement begins: “This Membership and Account Agreement (Agreement) is the contract of deposit that covers your and our rights and responsibilities concerning membership and accounts offered to you.” Section three of the Membership and Account Agreement is titled “Joint Accounts,” and continues, in relevant part:

An account owned by two or more persons is a joint account.

a. Rights of Survivorship. For a joint account, with rights of survivorship upon the death of one of the joint account owners, that person’s interest will pass to the surviving owners. For a joint account without right of survivorship, the interest of a deceased owner will pass to the decedent’s estate. Unless otherwise stated on the All-in-One Account Application, a joint account is an account with rights of survivorship.

In 1996, McChord Credit Union changed its name to Harborstone Credit Union. Harborstone Credit Union indicated its understanding, in a March 18, 2009 letter, that

the account at issue was a joint account between Michelyn Williams and McPhillips with a right of survivorship, based on Michelyn Williams's signature on August 4, 1993.

In February 2010, Mitchell Williams filed a petition under the Trust and Estate Dispute Resolution Act (TEDRA) under chapter 11.96A RCW. In that petition, he sought a finding and order from the trial court that the Harborstone Credit Union account should not pass to McPhillips but should be included in the estate. McPhillips filed a motion for summary judgment, asserting that the Harborstone Credit Union account was jointly held by her and her mother, was nonprobate, and properly passed to her via the survivorship provisions. The trial court heard oral argument on the motion and granted summary judgment in favor of McPhillips. Mitchell Williams timely appealed.

DISCUSSION

This court reviews summary judgment orders de novo. Hadley v. Maxwell, 144 Wn.2d 306, 310, 27 P.3d 600 (2001). Summary judgment is proper only when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c). When reviewing an order of summary judgment, this court engages in the same inquiry as the trial court, considering the facts and all reasonable inferences from the facts in the light most favorable to the nonmoving party. Right-Price Recreation, LLC v. Connells Prairie Cmty. Council, 146 Wn.2d 370, 381, 46 P.3d 789 (2002). "When a motion for summary judgment is made and supported as provided in [CR 56], an adverse party may not rest upon the mere allegations or denials of his pleading, but his response . . . must set forth specific facts showing that

there is a genuine issue for trial.” CR 56(e); Overton v. Consol. Ins. Co., 145 Wn.2d 417, 430, 38 P.3d 322 (2002).

Interpretation of an unambiguous contract is a matter of law. Paradiso v. Drake, 135 Wn. App. 329, 334, 143 P.3d 859 (2006). If a contract is unambiguous, summary judgment is proper. Id.

Mitchell Williams does not dispute that the account was intended to be a joint account. He argues only that there is no indication of Michelyn Williams’s intent to create an account with right of survivorship. In support of this, he claims that at the time Michelyn Williams signed the account application and the Membership and Account Agreement on August 4, 1993, she opened only an individual account. He argues that there was no evidence that Michelyn Williams ever received an explanation from the credit union of its default policy (contained in the Membership and Account Agreement), whereby, unless otherwise specified, joint accounts would automatically be accounts with right of survivorship. And, he points out that when McPhillips signed the account application on August 10, 1993, there was no indication that Michelyn Williams was present.

RCW 30.22.040 defines joint bank accounts, both with and without the right of survivorship. A joint account without right of survivorship is “an account in the name of two or more depositors and which contains no provision that the funds of a deceased depositor become the property of the surviving depositor or depositors.” RCW 30.22.040(7). And, a joint account with right of survivorship is “an account in the name of two or more depositors and which provides that the funds of a deceased depositor

become the property of one or more of the surviving depositors.” RCW 30.22.040(8).

There is no dispute about what happens to the funds in a joint account upon the death of a depositor:

(2) Funds belonging to a deceased depositor which remain on deposit in a joint account without right of survivorship belong to the depositor’s estate. . . .

(3) Funds belonging to a deceased depositor which remain on deposit in a joint account with right of survivorship belong to the surviving depositors unless there is clear and convincing evidence of a contrary intent at the time the account was created.

RCW 30.22.100.²

The general rule is that the intention of the parties creating the account controls the question of who owns the funds. Baker v. Leonard, 120 Wn.2d 538, 545, 843 P.2d 1050 (1993). Like summary judgment orders, contract interpretation questions are matters of law reviewed de novo. Hadley, 144 Wn.2d at 310; Schwab v. City of Seattle, 64 Wn. App. 742, 751, 826 P.2d 1089 (1992). If a signed writing incorporates other writings by reference, those writings are also part of the contract. Cahn v. Foster & Marshall, Inc., 33 Wn. App. 838, 841-42, 658 P.2d 42 (1983). With the account at issue here, there are two documents that indicate Michelyn Williams’s and McPhillips’s intentions when the account was created. The first document is the Account Application—the contract creating the account. And, the second is the Membership

² Mitchell Williams cites to RCW 30.22.090 and to In re Estate of Krappes, 121 Wn. App. 653, 91 P.3d 96 (2004). But, both deal with the ownership of the deposited funds *during the joint owners’ lifetimes*, and are thus inapplicable here, where the sole issue on appeal is McPhillips’ survivorship right, after Michelyn Williams’ death. McPhillips points out that there is a TEDRA petition still pending, where Mitchell Williams may properly address the issue of funds obtained prior to Michelyn Williams’s death. We decline to do so here.

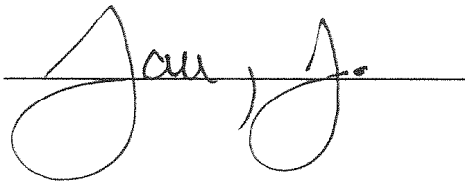
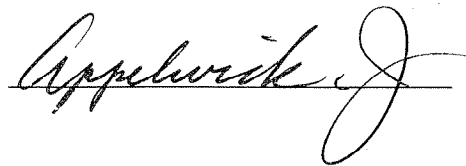
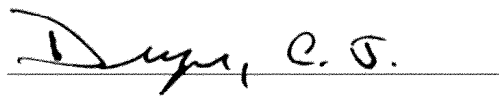
and Account Agreement. Mitchell Williams concedes that both Michelyn Williams and McPhillips received this Membership and Account Agreement in August 1993, upon opening the account. And, that document expressly provides that “[u]nless otherwise stated on the All-In-One Account Application, a joint account is an account with rights of survivorship.” The evidence at trial is that McPhillips and Michelyn Williams knew the terms of the Membership and Account Agreement when they signed the account application. In the application, the boxes in section 4, the “Account Agreement and Authorization,” are filled in and the language clearly incorporates, by reference, the Membership and Account Agreement. The terms of the Membership and Account Agreement are thus a part of the contract. Cahn, 33 Wn. App. at 841-42. The fact that the parties did not specify in the application whether the account was to have right of survivorship means that such a right is automatically applied by the credit union’s policy.

In determining the parties’ intent, the plain language of the contract provides conclusive evidence supporting the trial court’s finding that the account was a joint account with right of survivorship. Moreover, there is a presumption that absent clear and convincing evidence to the contrary, joint accounts are accounts with right of survivorship. See In re Estate of Bonness, 13 Wn. App. 299, 314, 535 P.2d 823 (1975). “If the account card, *in any manner*, evidences an intention that the account will be owned by the surviving depositor, we think the presumption of survivorship should prevail.” Id. This presumption further supports the trial court’s conclusion and its grant of summary judgment in McPhillips’ favor. The account application here

evidences an intention that the account would be owned by McPhillips after Michelyn Williams's death. McPhillips' declaration also supports that it was her intention to create right of survivorship when she signed the application as a joint owner. And, Harborstone Credit Union also indicated its understanding that the account was held as a joint account with right of survivorship, in its March 2009 letter.

Mitchell Williams did not present any evidence to rebut the presumption that the account was a joint account with right of survivorship. The only evidence he cites to is Michelyn Williams and McPhillips' failure to affirmatively indicate which type of account they were applying for. In light of the presumption in favor of the right of survivorship and the incorporated language of the Membership and Account Agreement, we hold that the trial court properly granted McPhillips' motion for summary judgment. Michelyn Williams and McPhillips opened a joint account with right of survivorship. We affirm.

WE CONCUR:

A handwritten signature in cursive script, appearing to read "J. J. Jones", written over a horizontal line.A handwritten signature in cursive script, appearing to read "Appelwick", written over a horizontal line.A handwritten signature in cursive script, appearing to read "Dupre, C. S.", written over a horizontal line.