

CHAPTER 3

Probate of Small Estates

Section

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49 PC 3-101. Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized.

When a decedent leaves personal property, including but not limited to cash, bank or other accounts, wages or salary due, shares of stock or other interest in any business enterprise, and goods and chattels of any nature, of a total value not exceeding \$1,000, and known debts, if any, of less than that amount, and the person or persons entitled to the personal property left by the decedent cannot readily obtain possession thereof, the surviving spouse, any adult child, including an adopted child, either parent, any brother or sister, the eldest brother of decedent's mother, or the head of the lineage of the decedent may file a sworn complaint in the Trial Division of the Pohnpei Supreme Court or, if the total value of the personal property does not exceed \$100, in the local court, within whose jurisdiction the decedent resided at the time of his death if he was a resident of the state of Pohnpei, or within whose jurisdiction all or part of the personal property is located if decedent was not a resident of the state of Pohnpei, asking the issuance of an order that such personal property be transferred to the complainant. If none of the persons named in this section file such complaint within 90 days of the death of the decedent, then any creditor of the decedent may file a sworn complaint as set forth herein.

Source: TTC §343(a) (1966); 13 TTC §51 (1970); 13 TTC §51 (1980)

49 PC 3-102. Complaints for transfer of decedent's personalty to beneficiaries and creditors; contents.

Such sworn complaint shall set forth the name, residence, and date of death of the decedent, and the names and addresses of the surviving spouse, children, brothers, and sisters of the decedent, and the eldest living brother of decedent's mother or, if none of the above persons survived the decedent, the name, address, and relationship of the nearest surviving relative. The complaint shall also state the total value of the personal property, and the property, if any,

that passed or is to pass under such will, and to whom it went or is to go, and shall contain the promise of the complainant to pay, as far as the assets of the estate permit, the debts of the decedent or to see that the said debts are paid by someone authorized by local custom, and to distribute the balance, if any, to the person or persons entitled thereto.

Source: TTC §343(b) (1966); 13 TTC §52 (1970); 13 TTC §52 (1980)

49 PC 3-103. Order of transfer; procedure if transfer withheld.

Upon the filing of such complaint, if it appears to the court that the ends of justice will be served, the court may issue an order, either without notice or after such notice as it deems proper, directing the transfer of the personal property to the complainant, or to such other person as the court deems proper, directing that the transferee pay, as far as the assets of the estate permit, the debts of the decedent, or see that they are paid, and then distribute the balance, if any, to the person or persons entitled thereto. Whoever transfers money or other property to the complainant, or to any other person appointed by the court as set forth above, shall incur no liability thereby, nor shall such person thereafter be held to account for the same to any person. Any person upon whom demand is made to transfer money or other property under the terms of such order who denies the right of the complainant or other transferee to receive the same shall, within ten days of the demand being made upon him to transfer such money or other property, file his answer in the same court that issued the order, setting forth the grounds that entitle him to retain possession thereof. Upon the filing of such answer, the court shall, after notice to the complainant or other transferee, set the matter down for hearing and make such finding and enter such further order as the ends of justice require.

Source: TTC §343(c) (1966); 13 TTC §53 (1970); 13 TTC §53 (1980)

49 PC 3-104. Procedure if debts exceed value of assets.

If the transferee finds, after the receipt of the personal property under such order of transfer, that the debts of decedent do in fact exceed the value of the property received, he shall make no further distribution of the same, but shall at once report the facts to the court that issued the order, setting forth the money and other personal property received, the disbursements he has already made, the names and addresses of the recipients of the property already disbursed, and the reason therefor, and shall list all known debts of decedent, including those that have recently come to the transferee's attention. The transferee shall take no further action save by order of the court.

Source: TTC §343(d) (1966); 13 TTC §54 (1970); 13 TTC §54 (1980)

49 PC 3-105. Responsibility of transferee.

The transferee shall be personally responsible for any property received by him under any order issued pursuant to this chapter, and any party claiming an interest in such property may, after demand, maintain an action against the transferee; PROVIDED, that no such action shall be brought against the transferee after two years from the date of the order under which the property was transferred to him.

Source: TTC §343(e) (1966); 13 TTC §55 (1970); 13 TTC §55 (1980)