

**NOTICE AND ORDER
FOR HEARING
PURSUANT TO MINN.
STAT. § 501C.0203**

STATE OF MINNESOTA

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

DISTRICT COURT

PROBATE DIVISION

Court File No.: 27-TR-CV-18-103

In the Matter of the Trust Created under Agreement By and Between Milan E. McCarthy and Mary L. McCarthy, Trustors, and Patrick L. McCarthy and U.S. Bank National Association, Trustees, dated February 5, 2003 for the Children of Patrick L. McCarthy

IT IS ORDERED AND NOTICE IS GIVEN that a Petition to Remove U.S. Bank National Association as Trustee, for Appointment of Successor Trustee, and for Modification of Trust Pursuant to Minnesota Statutes section 501C.0202, signed by Patrick L. McCarthy dated September 10, 2018, has been filed with the Court. The Petition requests an order for the following relief:

1. Removing U.S. Bank, National Association as Trustee and discharging U.S. Bank from any and all liability in connection with the administration of the Trust. Such action shall be effective upon the filing with this Court of an acknowledgment of receipt of the assets of the Trust by PATRICK L. McCARTHY.

2. Appointing MICHAEL E. McCARTHY as Successor Trustee of the Trust and if MICHAEL E. McCARTHY is unable or unwilling to serve as Trustee then TIMOTHY M. McCARTHY shall be appointed as Trustee, in the event PATRICK L. McCARTHY does not have any children and PATRICK L. McCARTHY is unable or unwilling to serve as Trustee.

3. Appointing the legal or natural parent of the children of PATRICK L. McCARTHY as Successor Trustee of the Trust, in the event that PATRICK L. McCARTHY has any children and PATRICK L. McCARTHY is unable or unwilling to serve as Trustee.

4. Allowing PATRICK L. McCARTHY'S children to elect to be co-Trustee at the age of twenty-one (21).

5. Determining that this Trust is not subject to continuing jurisdiction of the Court pursuant to Minn. Stat. § 501B.0205.

6. Modifying Article VI, Paragraph 4 to read:

Definitions.

a. "Child" as used herein, includes only the children of the Trustors as names above.

b. "Issue" of a person, as used herein, means all persona who are descended from the person referred to, either by legitimate birth to or legal adoption by such person or any of such person's legitimately born or legally adopted descendants. An issue in gestation at the time of an event who is later born alive is 'living' or 'surviving' at the time of such event.

c. "Grandchild" as used herein, includes only the issue of the second generation of the Trustors who are legitimately born to or legally adopted by a child of the Trustors.

d. "Generation-skipping tax" means any tax imposed under Chapter 13 of the U.S. Internal Revenue Code of 1986, including the GST, and any applicable state statute.

e. "Inclusion ratio" shall have the meaning as applied under the generation skipping tax provisions of Chapter 13 of the U.S. Internal Revenue Code.

f. "Independent Trustee" as used herein, means any trustee other than (i) a transferor of property to the trust, including a person whose qualified disclaimer resulted in property passing to the trust; or (ii) a beneficiary of the trust who is, or in the future may be, eligible to receive income or principal pursuant to the terms of the trust; or (iii) a person who is a related or subordinate party under Internal Revenue Code section 672(c) as to any person described under (i) or (ii) above. A person is described in (ii) of this Paragraph even if he or she has a remote contingent interest in the trust, but is not described in (ii) of this Paragraph if the person's only interest is as a potential appointee under a non-fiduciary power of appointment held by another person, the exercise of which will take effect only in the future, such as a testamentary power held by a living person.

7. Modifying Article X, Paragraph 1 to read, "Trustee Succession. If PATRICK L. McCARTHY does not have any children and PATRICK L. McCARTHY is, at any time, unwilling or unable to serve as trustee, then MICHAEL E. McCARTHY and TIMOTHY M. McCARTHY, if willing and able to serve are hereby nominated to serve as successor co-trustees. If either MICHAEL E. McCARTHY or TIMOTHY M. McCARTHY is unwilling or unable to serve as co-trustees, then the other shall serve alone, subject to Paragraph 2 of this Article X. If PATRICK L. McCARTHY has any children and PATRICK L. McCARTHY is, at any time, unwilling or unable to serve as trustee, then the legal or natural parent of PATRICK L. McCARTHY'S children may be appointed as successor trustee, subject to Paragraph 3 of this Article X."

8. Modifying Article X, Paragraph 2 to read, "Addition, Removal or Replacement of Trustees. The individual trustee or trustees, if any, shall have the power, at any time, in writing, to add, remove, or replace any trustee then serving. Notwithstanding the foregoing, if any individual trustee then serving is the legal or natural parent of a child of PATRICK L. McCARTHY, such parent shall have the sole power to add, remove, or replace any trustee hereunder, without the consent of any other individual trustee. If any trustee so added or replaced by the individual trustee or trustees is a corporate trustee, the successor corporate trustee appointed shall be a national banking association having trust powers subject to state or federal banking supervision."

9. Modifying Article X, Paragraph 3 to read, "Grandchild as Trustee. Any child of PATRICK L. McCARTHY, at any time after attaining the age of twenty-one (21) years may, in writing, elect to serve as co-trustee, subject to the power of the legal or natural parent of PATRICK L. McCARTHY'S children to add, remove, or replace any trustee as provided in Paragraph 2 of this Article X. Further, if any child of PATRICK L. McCARTHY is the sole eligible trustee, they shall have the sole power to add, remove, or replace any trustee hereunder, without the consent of any other individual trustee, as provided in Paragraph 2 of this Article X."

10. Inserting Article XI into the Trust, appended to the Petition as Exhibit A.

11. Establishing that all actions of the co-Trustees with respect to investments including the retention, exchange, disposition, or change in form of trust assets during the period from the Trust's creation to the date of the court's order. The Trustees are authorized and instructed to retain as assets of the Trust all properties, or any part thereof, held as assets so long as the retention appears desirable and for and in the best interests of the Trust and the beneficiaries thereof, with no other or further duties than would apply to other trust investments.

12. Authorizing U.S. Bank to transfer custody of the trust assets to PATRICK L. McCARTHY as Trustee for the benefit of the children of PATRICK L. McCARTHY, and

13. Granting such other relief as may be proper.

14. Any objections to the Petition must be filed with the Court prior to or at the hearing. If no objections are filed the Petition may be granted.

The Court represents all persons in interest who are minors or incapacitated, or unborn, unascertained or whose identity or address is unknown and not reasonably ascertainable, and has determined that all other persons with an interest in the Trust are represented under sections 501C.0301 to 501C.0304.

IT IS ORDERED, that the Petition will be heard on December 12th, 2018, at 1:45 PM by this Court at 300 South 6th Street, C-459 Government Center, Minneapolis, Minnesota 55487.

1. Notice shall be given to all persons named in the Petition as having or as claiming an interest in the Trust.

2. Notice shall be given by:

a. In Rem Jurisdiction:

Mailing a copy of this Notice and Order for Hearing to all persons named in the Petition as having or who may claim to have an interest in the Trust, at their last known addresses by U.S. Postal Service at least 15 days prior to the hearing date, and Publishing this Notice and Order for Hearing one time at least 20 days prior to the hearing date in a legal newspaper of Hennepin County, Minnesota.

Dated: September 18th, 2018

Elizabeth Cutter

Judge of District Court

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