

AANESTAD LAW

A Trust & Estate Planning Firm

September 24, 2024

Laura F. Pare, Esq.
Law Office of Minor & Keene
230 Colfax Ave., Suite 200
Grass Valley, CA 95945

Re: C. Duane and Kathryne J. Niesen Trust

Dear Ms. Pare:

Please be advised that our office represents Jesse Niesen, as the Attorney in Fact for Kathryne J. Niesen. Recently, your client, Perry D. Niesen, as Trustee of the Niesen Trust Estate, indicated that he sent a check to Prestige for payment of one month of Kathryne Niesen's expenses at the facility. Perry also offered, if need be, to send payment for the second month that is overdue to Prestige. I'm writing on behalf of Jesse to request that Perry, as Trustee, pay the monies that are due to Prestige from the trust funds for Kathryne's benefit.

Jesse is working on gaining access to Kathryne's individual accounts, but in the meantime, the trust is responsible for supporting Kathryne. Please note the following provision from the Trust, at Article Two, subsection D (Distributions in the Event of Incapacity), page 3 for Perry:

"If either or both of the Grantors become physically or mentally incapacitated . . . the Trustee shall pay to or apply for the benefit of the Grantors, first from the community estate until it is exhausted and then from the separate estates of either or both Grantors, as much of the net income and principal of the trust estate as the Trustee considers necessary to provide for the Grantors' health, education, maintenance, support, comfort, happiness, and welfare."

Although Mrs. Niesen is incapacitated, she remains the primary beneficiary of the trust estate. Even when Jesse gains access to Kathryne's individual bank accounts, the trust terms mandate that the trust funds be used for Kathryne's support first. I understand that there is a desire by all the Niesen children, including Jesse, to preserve the family ranch and its assets. However, as I've cautioned Jesse, the trust assets are intended for Kathryne's benefit only while she is still living.

With that said, once Jesse gains access to Kathryne's individual accounts, those accounts can be used to pay the skilled nursing facility directly and the trust assets can be used to

supplement her standard of living. But Kathryn's health, maintenance, and support, should be primary, as I know all the children agree.

I also noticed in Perry's correspondence to his siblings that it appears that he may be distributing assets to beneficiaries now, rather than waiting until after Kathryn's passing. In particular, it appears that he may have gifted guns to family members and that there may be discussion about other personal property items that beneficiaries want. From Perry's correspondence, it appears that that these items may have belonged to their father, Duane, so he may feel that he can distribute those assets to beneficiaries now, but upon Duane's death, all of Duane's assets belong to the Trust – even those items that are outside of the trust become assets of the Trust through the power over will. Thus, all assets, even Duane's personal property, belong to Kathryn as the primary beneficiary of the Trust, and are to be used for her benefit. If there is a document that I have missed that allows or directs Perry to gift assets to beneficiaries following Duane's passing while Kathryn is still living, please let me know and we'd be happy to withdraw this concern.

Again, Jesse is working on attaining access to Kathryn's individual bank accounts and is requesting that the Trust continue to support Kathryn by paying the Prestige bill in full.

Jesse also requests that Perry provide information and potential sales prices about any assets that he intends to sell prior to the sale.

Should you have any questions, or wish to discuss the request or concerns stated herein further, please let me know.

Sincerely,



Tiffani C. Aanestad
Attorney at Law

/TCA