

1958

In the Matter of the Estate of Hillard L. Voorhees : Brief of Appellant

Utah Supreme Court

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IN THE SUPREME COURT

of the

STATE OF UTAH

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IN THE MATTER OF THE ESTATE

Clerk, Supreme Court, Utah

of

HILLARD L. VOORHEES.

No. 8809

Deceased.

APPELLANT'S BRIEF

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IN THE SUPREME COURT
of the
STATE OF UTAH

IN THE MATTER OF THE ESTATE

of

HILLARD L. VOORHEES,

Deceased.

No. 8809

APPELLANT'S BRIEF

INTRODUCTORY STATEMENT

This is an interlocutory appeal granted by the Supreme Court of the State of Utah on April 2, 1958, from the Order of the District Court of Sanpete County of December 23, 1957, as modified on December 24, 1957, appointing Tracy-Collins Trust Company successor administrator of the Estate of Hillard L. Voorhees, Deceased.

For the sake of clarity in this Brief the parties shall be referred to as they appear before this Court. Mrs. Pearl O. Voorhees shall be referred to hereafter as "Appellant," and the surviving daughters of the deceased shall be referred to hereafter as "Respondents." References to the estate of Hillard L. Voorhees, deceased, shall be referred to as "Estate", and the District Court of Sanpete County shall be referred to hereafter as "Court." References to the record of the Court below shall be as follows: (R-1). References to the transcript of the proceedings of the Court below shall be as follows: (Tr-1).

STATEMENT OF FACTS

Hillard L. Voorhees died intestate in Manti, Sanpete County, State of Utah, on the 24th day of July, 1956, leaving surviving him as his sole and only heirs at law the Appellant and the Respondents.

On September 24, 1956, the Appellant filed Petition for Letters of Administration of the Estate (R-1, 2). On October 24, 1956, Letters of Administration were granted to the Appellant by the Court (R-9) and on October 29, 1956, the Court ordered the Appellant appointed Administratrix of the Estate (R-8).

On September 25, 1957, the Respondents filed a Petition for Revocation of Letters of Administration previously granted to the Appellant, together with a Motion for Order to Show Cause based upon said Petition (R-29, 34). The Petition for Revocation of Letters of Adminis-

tration basically alleged that the Appellant as Administratrix had neglected the affairs of the Estate in that she had failed to account for property of the Estate coming into the Appellant's possession, and, further, said Petition requested that the Walker Bank & Trust Company be appointed successor administrator of the Estate. Hearing of said Petition for Revocation of Letters of Administration and Order to Show Cause was held before the Court on October 21, 1957.

At the commencement of the hearing on October 21, 1957, it was stipulated between counsel for Respondents and counsel for Appellant that the Appellant would resign as Administratrix of the Estate and Walker Bank & Trust Company be appointed successor administrator (Tr-31, 32). The Court subsequently entered its oral Order that the Letters of Administration previously granted to the Appellant be revoked on stipulation of counsel, and appointed the Walker Bank & Trust Company as successor administrator (Tr-109). Evidence was then received by the Court at the October 21, 1957, hearing concerning the property of the Estate and its location for the purpose of future actions (Tr-4, 6). Pursuant to the Stipulation of counsel the Court on October 28, 1957, entered its Order Revoking the Letters of Administration and appointing Walker Bank & Trust Company successor administrator of the Estate (R-86), and it was further Ordered by the Court that the Appellant make an accounting of the property of the Estate on or before 20 days from October 28, 1957. Two extensions

of time were granted to the Appellant for filing a final report and accounting as Administratrix of the Estate (R-87, 98).

At the request of Respondents on December 6, 1957, the Walker Bank & Trust Company filed its rejection of appointment as successor administrator of the Estate (Tr-117, R-99), and on the same date the Respondents petitioned for the appointment of Tracy-Collins Trust Company as successor administrator (R-100, 102). Based upon the Respondents' Petition for Appointment of Successor Administrator dated December 6, 1957, the Court issued an Order to Show Cause why Appellant should not be held in contempt for failing to file her accounting of the Estate and why Appellant had not forfeited her right to serve as Administratrix or to designate or appoint a successor administrator. Hearing on the Petition for Appointment of Successor Administrator of Respondents was set for December 16, 1957. An Answer to Respondents' Petition for Appointment of Successor Administrator was filed by Appellant alleging that the Appellant had not filed her accounting as Administratrix in view of the Order of the Court dated December 2, 1957, extending the time of said filing for 20 days, and that in no manner had the Appellant waived her preferential right to nominate a successor administrator of the Estate. The Appellant's Answer further nominated Walker Bank & Trust Company as successor administrator of the Estate (R-108-112). On December 16, 1957, the Walker Bank & Trust Company tendered

to the Court its Notice of Revocation of its previous rejection as administrator (R-114) and also qualified by tendering to the Court executed Letters of Administration for administration of the Estate (R-113). A hearing was held before the Court on December 16, 1957, at which time the Trust Officer of Walker Bank & Trust Company, Mr. Claire Mortenson, testified as to the reasons for the revocation of its previous rejection of Letters of Administration (Tr-129). The Court at the close of this hearing entered its oral Order appointing Tracy-Collins Trust Company successor administrator (Tr. 160).

The Order appointing successor administrator (R-121, 122) from which this interlocutory appeal was granted was entered by the Court on December 21, 1957, as modified by the letter of the Judge of the Court below dated December 24, 1957 (R-165, 166). The Order of the Court appointed Tracy-Collins Trust Company as successor Administrator of the Estate, restated in part the Findings of Fact and Conclusions of Law which were filed on the same date (R-115, 118). In substance these Findings restated in the Order were that Tracy-Collins Trust Company was legally competent to serve as successor administrator of the Estate, and that Walker Bank & Trust Company heretofore had filed its Notice of Rejection of Letters of Administration because of its policy not to become involved in litigation against a surviving widow who makes an adverse claim and owns property as against the claim of the Estate, and that Tracy-Collins Trust Company would act fairly and impartially in

administering the affairs of the Estate. The offer of Walker Bank & Trust Company to withdraw its rejection of appointment as successor administrator of the Estate was refused by the Court unless Tracy-Collins Trust Company should fail or refuse to execute its oath of office within five days from the date of the Order, in that event the Court would consider an informal Motion on five days notice for the reinstatement of Walker Bank & Trust Company.

STATEMENT OF POINTS

POINT I.

THE COURT BELOW IN APPOINTING TRACY-COLLINS TRUST COMPANY SUCCESSOR ADMINISTRATOR OF THE ESTATE OF HILLARD L. VOORHEES, DENIED THE APPELLANT'S PREFERENTIAL STATUTORY RIGHT FOR THE APPOINTMENT OF A SUCCESSOR ADMINISTRATOR UNDER THE PROVISIONS OF SECTIONS 75-4-1 and 75-6-3, UTAH CODE ANNOTATED, 1953.

POINT II.

EVEN IF THE APPELLANT IN SOME MANNER HAD EITHER WAIVED OR CONDUCTED HERSELF AS ADMINISTRATRIX SO AS TO LOSE HER PREFERENTIAL RIGHT TO NOMINATE A SUCCESSOR ADMINISTRATOR TO THE ESTATE, THE WALKER BANK & TRUST COMPANY, BY FILING A REVOCATION OF ITS PRIOR REJECTION OF LETTERS OF ADMINISTRATION BEFORE THE APPOINTMENT OF TRACY-COLLINS TRUST COMPANY AS SUCCESSOR ADMINISTRATOR, HAD A PRIOR RIGHT TO THE ADMINISTRATION OF THE ESTATE, AND THE COURT ERRED IN ITS ORDER OF DECEMBER 21, 1957, IN NOT APPOINTING WALKER BANK & TRUST COMPANY SUCCESSOR ADMINISTRATOR OF THE ESTATE.

ARGUMENT

POINT I.

THE COURT BELOW IN APPOINTING TRACY-COLLINS TRUST COMPANY SUCCESSOR ADMINISTRATOR OF THE ESTATE OF HILLARD L. VOORHEES, DENIED THE APPELLANT'S PREFERENTIAL STATUTORY RIGHT FOR THE APPOINTMENT OF A SUCCESSOR ADMINISTRATOR UNDER THE PROVISIONS OF SECTIONS 75-4-1 and 75-6-3, UTAH CODE ANNOTATED, 1953.

By the Court's Order of December 21, 1957 (R-119), Tracy-Collins Trust Company was appointed successor administrator of the Estate and Letters of Administration were to be issued to the Tracy-Collins Trust Company upon their taking and subscribing the oath as required by law on or before December 21, 1957, this appointment being pursuant to the Petition of Respondents (R-101). The Appellant in Answer to the Petition for successor administrator filed by the Respondents nominated Walker Bank & Trust Company to be successor administrator to herself (R-111).

Section 75-4-1, U.C.A., 1953, insofar as applicable, provides as follows:

“To whom granted Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, the relatives of the deceased being entitled to administer only when they are entitled to succeed to his personal estate or some portion

thereof; and they are respectively, entitled thereto in the following order:

- (1) The surviving husband or wife;
- (2) The children . . .

Administration may be granted to one or more competent persons although not otherwise entitled to the same at the written request of the person entitled filed in the Court."

The Appellant exercised her preferential right for appointment as Administratrix of the Estate by filing her petition for Letters of Administration on September 24, 1956, the date of the demise of the deceased being July 24, 1956. This exercise of preferential right was accomplished within the time limit of three months provided in 75-4-3, U.C.A., 1953.

The Appellant designated a successor administrator, the Walker Bank & Trust Company, as is provided in Section 75-6-3 U.C.A., 1953, which provides:

"Appointment of a successor-In case of the removal, resignation, or death of one of several Executors or Administrators, the Court, if it deems it necessary, may appoint a successor or may permit the remaining executor or executors, administrator or administrators, to complete the execution of the trust. In case of the death, resignation or removal of all, *the Court shall, upon notice, issue Letters to the person having the prior right thereto, or to any competent person named by the person having such prior right. . .*" (Emphasis ours.)

The language of 75-6-3, U.C.A., 1953, manifests a clear legislative intent to continue the preferential right of 75-4-1 U.C.A., 1953, to apply to the appointment of successor administrators in the event of resignation or removal of an administrator. It will be noted that the preferential right of nominating a successor administrator under 75-6-3 U.C.A., 1953, is granted even in the event of "removal" of the administrator. The only qualification placed upon the exercise of this preferential right of nomination of successor administrator in 75-6-3 U.C.A., 1953, is that the nominee be "competent." The Appellant after termination of her period as Administratrix of the Estate nominated the Walker Bank & Trust Company to act as successor administrator of the Estate. Although Respondents may argue that the Court found Walker Bank & Trust Company "incompetent" in the Findings of Fact made by the Court (R-115-118), it is paradoxical that the Court previously considered Walker Bank & Trust Company "competent" to act as successor administrator of the Estate (Tr-32), and in the Order from which this appeal is taken the Court further states it will consider the appointment of Walker Bank & Trust Company as successor administrator of the Estate (R-121). The Court's own actions negate any inference of a lack of competency on the part of Walker Bank & Trust Company to serve as successor administrator of the Estate.

The revocation of Letters of Administration of the Appellant (R-86) could not constitute a waiver or a legal deprivation of the preferential right of the Appellant to

nominate the successor administrator of the Estate. Before proceeding further, let us examine the circumstances surrounding the Court's Order revoking the Letters of Administration of the Appellant and appointing Walker Bank & Trust Company successor administrator of the Estate. This Order resulted from a hearing before the Court on October 21, 1957. The purpose of the hearing was to determine the merits of the Petition for Revocation of Letters of Administration filed by the Respondents. As was cogently stated by counsel for the Respondents at the commencement of this hearing, its purpose was:

“Mr. Nielsen: And this proceeding is for the purpose of examining her concerning where that property may be and whether she claims an adverse interest, and to ask that an independent and impartial person be appointed administrator so as to take such action as may be necessary to bring that property in to the estate.

We are not asking the Court to pass upon, at this time, the ownership of the property. If she could claim adversely, I don't know whether she will claim it adversely or not, but if she does, under the Section under which we brought it the Court is not required, need not pass upon the ownership of it.

But we think an administrator which is impartial and free from prejudice and has no conflicting interest in the estate should be appointed to look into the matter and to take such action as may be necessary.” (Tr-4).

In response to the opening statement by counsel for the Respondents, counsel for the Appellant stated:

“Mr. Worsley: Your Honor, it would appear to us that the essential purpose of the hearing this morning deals with the question as to whether or not Mrs. Voorhees should continue as administratrix. We have given the matter some thought, Your Honor, and believe that under the circumstances here, since apparently there are adverse claims existent, that it would be best if the court did permit her to resign and to substitute another administrator until this matter is resolved.

I would like to make very clear to the court and to counsel for petitioners, as well as the petitioners themselves, that we do not in any sense concede that their claims have any foundation. Quite contrary. But there would appear to be a conflict of interest and under those circumstances we feel that she would, should be, would be willing to step aside for the time being. I make it clear, however, also to the court that in all probability when such conflict has been resolved we may again petition to have her re-appointed.” (Tr-5).

The counsel for the respective parties indicated to the Court their assent to the appointment of Walker Bank & Trust Company as successor administrator (Tr-5, 6). The nature of the stipulation for resignation of the Appellant is clearly set out by counsel for the respective parties and the Court:

“Mr. Nielsen: In view of the stipulation between the parties will Your Honor indicate to counsel at this time that the, he will accept the

resignation of Mrs. Voorhees and appoint the Walker Bank so that we may proceed on that basis and have them qualify?

* * *

The Court: If she is going to stipulate to her attorneys she will resign, that is one thing. Whether the court will force her to is another thing.

Mr. Worsley: She has stated to the court, and so states through us, that she is willing to resign, Your Honor, and consents that Walker Bank and Trust Company be appointed in her stead, administrator DBN.

Mr. Nielsen: Would Your Honor indicate that you would be willing to have that done, or to make a direction in the record so that we can proceed. That is the thing that I wanted the court to do.

The Court: Well, on stipulation of counsel I wouldn't have any objection to it." (Tr-31, 32).

From the colloquy between the Court and counsel on October 21, 1957, it is quite apparent that the Court revoked the Letters of Administration solely upon the grounds of the stipulation between Counsel, and the same is reflected in the Order Revoking the Letters of Administration and appointing a successor administrator (R-86, Tr-31, 32). As stated by counsel for Respondents, Mr. Nielsen, (Tr-107):

“Yes, pursuant to a request for resignation. We have both stipulated that she may resign. I haven’t pressed the point of whether she should be compelled to. She has asked the Court to let her and I am willing to let her resign.” (Tr-107).

The evidence adduced at the hearing of October 21, 1957, was, according to counsel for Respondents, for the purpose of determining the property included within the Estate and its location (Tr-4, 6). From the evidence presented the Court made no finding of mismanagement, waste or failure to comply with the Orders of the Court by the Appellant as Administratrix of the Estate in revoking the letters of Administration of the Appellant. The Letters of Administration were not revoked for cause, but rather by stipulation of the parties. It is respectfully submitted, therefore, that the appellant has in no fashion waived her preferential right to nominate a successor administrator even though she disqualified herself to act by resigning as Administratrix.

The preferential right for appointment of administrators and their successors as outlined in Sections 75-4-1 and 75-6-3, U.C.A., 1953, has been upheld by our Court when the person with the preferential right has exercised it in accordance with the Statutes of this State as was done by the Appellant in the instant case. Three Utah cases aptly demonstrate the Court’s attitude toward this preferential right:

The first is *In Re Pingree’s Estate*, (1929), 74 Utah 384, 279 P. 901. In this case the widow of the deceased petitioned for Letters of Administration. A number of

her children objected to her appointment as administratrix and filed a cross-petition for the appointment of one of the sons of the deceased as administrator. The lower Court denied the widow her preferential right on the grounds that there was some hostility between the widow and the other heirs, and likely to be quarrels and friction between herself and the other heirs, and that because of this conflict her administration would not be impartial. It also found that she had not filed her petition for appointment as administratrix within the requisite three months statutory period. The Supreme Court of the State of Utah, in reversing the lower Court and granting to the widow her preferential right to be administratrix, stated at page 903:

“The Trial Court having found that Appellant is a competent person to be charged with the administration of the affairs of the estate and inasmuch as her application was made within the prescribed time fixed by Compiled Laws of Utah, 1917, Section 7598, she was entitled to Letters of Administration of the Estate of the deceased as a matter of right, in the absence of showing some good and sufficient reason to the contrary. In *Re Owen's Estate*, 30 Utah 351, 85 Pac. 277; In *Re Slater's Estate*, 55 Utah 252, 184 Pac. 1017, it is conceded by respondents that the right to administer the estate is a valuable right. Appellant, more than any other single individual, is interested in the economical and expeditious administration of its affairs.”

The second case is *In Re Johnson's Estate*, (1934), 84 Utah 186, 35 P. 2d 305. In the Johnson case, the widow

of the deceased had filed an action for divorce and the interlocutory decree was granted about one month before his death. The brother of the deceased petitioned for Letters of Administration and was appointed Administrator. The widow then dismissed the divorce action and petitioned for removal of the brother as administrator, and petitioned for her own nominee to become administratrix of the estate of her deceased husband. The lower Court removed the brother as administrator and appointed the nominee of the widow as the administratrix. This decision was affirmed by the Supreme Court of the State of Utah. The Supreme Court in commenting on the then Section 102-4-1 Rev. Stat. of Ut., 1933, (now Section 75-4-1, U.C.A., 1953) stated:

“... Under the provisions of the compiled Laws of Utah 1917, Section 7596, now Section 102-4-1, Supra, she was entitled to have Letters of Administration of the estate of the deceased issued to her as a matter of right, in the absence of showing of some good and sufficient reason to the contrary . . . a person having a preferential right may nominate another to assume the administration of the estate. Revised Statutes of Utah, 1933, Section 102-4-3. Obviously, where a person having a preferred right nominates a competent person, the appointment of such nominee is mandatory.”

The third case supporting the Appellant's contention that she has been denied her preferential right by the Order of the Court below, is *In Re Martin's Estate* (1946), 109 Utah 131, 166 P. 2d 197. In the Martin case, the surviving daughter filed a petition for appointment of

herself as administratrix of both her parents' estates. The children of her deceased sister filed a cross-petition objecting to her appointment on the grounds that the surviving daughter was a married woman. This objection was well taken under the then operative Utah Statute, and, therefore, the surviving daughter nominated one Nelson to be administrator. The lower Court would not appoint Nelson as administrator, and appointed another who subsequently resigned. Then Nelson's nomination was revived, and he was appointed administrator. Nelson then refused to qualify, and after his failure to qualify, the surviving daughter petitioned for one Christensen to be appointed administrator of the estates of her deceased parents. The lower Court appointed her nominee, and an appeal was taken to the Supreme Court of the State of Utah. The Supreme Court upheld the appointment of the lower Court and found that even though the surviving daughter of the deceaseds was rendered incompetent, she was not deprived of her right to nominate an administrator nor had she waived her right when she nominated a person who refused to qualify and act. The Court, through Justice Turner, at page 199 stated:

“Mrs. Reynolds became disqualified to serve when objection was made as provided in the Statute but such disqualification did not render her incompetent to nominate. This right was not exhausted when she nominated Nelson and he refused to qualify and act. It should be remembered that Mrs. Reynolds filed her Petition for Letters shortly after the death of her father and within the three months period prescribed by the statute,

and thus preserved this right. See Section 102-4-3, Utah Code Annotated, 1943. In *Re Johnson's Estate*, 84 Utah 168, 35 P. 2d 305; In *Re Smith's Estate*, 85 Utah 606, 40 P. 2d 180; In *Re Owen's Estate*, 30 Utah 351, 85 Pac. 277. Even though the Statute declares them to be incompetent to administer an estate, infants and incompetents, through guardians and non-resident heirs, may exercise the right of nomination under the Statute.

Appellants do not seriously contend that there is merit to their argument that Mrs. Reynolds 'waived' her right to nominate. A right cannot be waived by exercising it. Had she failed to file a petition for Letters of Administration within the statutory period, she might have waived her right to nominate."

It is respectfully submitted that the Appellant in the instant case has in no manner waived her right to nominate a successor administrator, as a matter of fact she has reserved this right by, first, filing as Administrator, and second, by nominating a successor administrator. It is submitted that no finding or proof has been adduced in the record of the Court below to substantiate any denial by the Court of her preferential right to nominate a successor administrator.

The Supreme Court of the State of Utah in the analogous cases set forth above has jealously guarded the preferential right of the person granted by Statute to nominate an administrator or successor administrator. The Order of the Court below from which this Appeal was granted flaunts a clear line of case law and statu-

tory authority in failing to honor the preferential right of the Appellant to appoint her nominee as successor administrator of the Estate.

POINT II.

EVEN IF THE APPELLANT IN SOME MANNER HAD EITHER WAIVED OR CONDUCTED HERSELF AS ADMINISTRATRIX SO AS TO LOSE HER PREFERENTIAL RIGHT TO NOMINATE A SUCCESSOR ADMINISTRATOR TO THE ESTATE, THE WALKER BANK & TRUST COMPANY, BY FILING A REVOCATION OF ITS PRIOR REJECTION OF LETTERS OF ADMINISTRATION BEFORE THE APPOINTMENT OF TRACY-COLLINS TRUST COMPANY AS SUCCESSOR ADMINISTRATOR, HAD A PRIOR RIGHT TO THE ADMINISTRATION OF THE ESTATE, AND THE COURT ERRED IN ITS ORDER OF DECEMBER 21, 1957, IN NOT APPOINTING WALKER BANK & TRUST COMPANY SUCCESSOR ADMINISTRATOR OF THE ESTATE.

The Walker Bank & Trust Company rejected its appointment as successor administrator of the Estate on December 6, 1957 (R-99), pursuant to the request of Respondents (Tr-118). On December 16, 1957, Walker Bank & Trust Company filed with the Court its revocation of previous rejection of Letters of Administration and executed and tendered Letters of Administration (R-113, 114), and further stated its desire to qualify as successor administrator of the Estate. At the hearing before the Court on December 16, 1957, the Court considered the problem of appointment of a successor administrator of the Estate, i.e. whether to appoint the nominee of the Appellant or the nominee of the Respondents. The Court, at the close of the hearing of December 16, 1957, denied

the application of Walker Bank & Trust Company to be reinstated as successor administrator and appointed Tracy-Collins Trust Company "substitute administrator" (Tr-160).

The general rule in this situation is set forth in 33 C.J.S. 955, Executors and Administrators, Sec. 47 (d):

"d. Retraction of Renunciation

Broadly speaking a renunciation may be retracted before, but not after, appointment of another to the office of administrator, and in cases of doubt the matter is addressed to the discretion of the Court.

While retraction of a renunciation of the right to administer a decedent's estate is not favored, such retraction is ordinarily permissible prior to the grant of administration to another, and it has been held that the question of permitting a retraction is committed to the sound discretion of the court. Generally speaking, however, retraction should not be permitted while proceedings for the appointment of another are pending or after another person has been appointed to the office, unless it appears to the satisfaction of the court that the renunciation was executed by a mistake."

It is respectfully submitted that Walker Bank & Trust Company submitted its rejection of administration under the mistaken belief that it had to fulfill certain commitments to Respondents and their counsel (Tr-129). On reconsideration at the request of the Appellant

the Walker Bank & Trust Company determined that it could do a service to the Estate by qualifying as administrator. Mr. Clair Mortensen, Trust Officer, Walker Bank & Trust Company, testified as to the reasons for his company's actions stating that it was the policy of the Walker Bank & Trust Company to provide an impartial, unbiased administration and to avoid litigation by the Estate unless it would be in the best interests of the Estate (Tr-129, 130, 131, 135).

At the conclusion of the hearing of December 16, 1957, without any examination of the other successor administrator nominee, the Court appointed Tracy-Collins Trust Company successor administrator. Under such ill-advised circumstances the Court made its appointment rejecting the appointment of Walker Bank & Trust Company. Such action by the Court is not only contrary to the law, but also an abuse of its discretionary power. Here a previously acceptable administrator was rejected by the Court even though it had offered to qualify as administrator before the Court had appointed another administrator. And the Court did not ever see fit to examine the qualifications of the appointed administrator.

CONCLUSION

The Appellant by the Order of the Court from which this appeal was granted has been deprived of her preferential right to nominate and have appointed the Walker Bank & Trust Company successor administrator of the Estate of her deceased husband. The action of the

Court appointing Tracy-Collins Trust Company successor administrator not only ignored the statutory right of the Appellant, but also failed to consider and apply the general rule that a renunciation of administration can be retracted before the appointment of a successor administrator, as was done by Walker Bank & Trust Company in the instant case.

The Appellant submits that the Order of the Court below appointing Tracy-Collins Trust Company successor administrator of the Estate should be reversed and that the Walker Bank & Trust Company should be appointed successor administrator of the Estate.

Respectfully submitted,

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