

OPINION SUMMARY
MISSOURI COURT OF APPEALS—EASTERN DISTRICT
DIVISION TWO

VICTOR D. LABANTSCHNIG, JR.,)	No. ED100790
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	11SL-CC02900
)	
KENNETH H. BOHLMANN,)	
)	
and,)	
)	
DENNIS G. LABANTSCHNIG,)	Honorable Thea Anne Sherry
)	
Appellants.)	FILED: August 26, 2014

Kenneth H. Bohlmann (Trustee) and Dennis G. LaBantschnig appeal from the judgment following an equity suit brought by Victor D. LaBantschnig, Jr. against Trustee alleging breach of fiduciary duty under the Victor D. LaBantschnig, Sr. Revocable Living Trust.

AFFIRMED.

Division Two Holds: We find no language in the *in terrorem* clause indicating that enforcing one's rights under the Trust would cause a forfeiture. Here, Victor does not ask for any part of the Trust to be altered or changed in any way but only requests that the property be appraised as set forth in the Trust. By its own language, the purpose of the Trust was to divide the Grantor's assets equally between his two sons. Victor brought suit to enforce the terms of the Trust and to require the Trustee to complete and file an accounting and distribute the assets pursuant to the terms of the Trust. Based on the record before us, the trial court correctly determined that Victor's actions to enforce the provisions of the Trust did not violate the terms of the *in terrorem* clause contained in Item Eleven.

Opinion by: Mary K. Hoff, J.
Sherri B. Sullivan, P.J., and Philip M. Hess, J., Concur.

Attorneys for Appellants: Richard P. Bumb
Daniel A. Raniere

Attorney for Respondent: Theodore D. Dearing

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.
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