

**Dutchess County Bar Association
Guardian Ad Litem Training Program
May 6, 2014**

ACCOUNTING PROCEEDINGS¹

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PLEASE NOTE:

All program materials and exhibits can be found at www.tcnylaw.com
under “**2014 Guardian ad Litem Training Program**”

I. **GENERALLY: TYPES OF ACCOUNTINGS**

A. **“Informal” Accounting**

The account of a fiduciary is most commonly settled “informally” (i.e., non-judicially), due to the additional expense, delay and publicity of a judicial accounting.

The operative documents in an informal account are usually:

(i) A “Receipt, Release and Refunding Agreement” (sometimes coupled with Indemnity provisions).

(ii) An “account”, which can run the gamut from (a) full schedules of account in judicial format to (b) statements of assets on hand at the beginning and end of the accounting period.

There is a large body of law connected with informal accountings. Since, however, a Guardian ad Litem would not be appointed in connection with an informal accounting (except perhaps in the most unusual circumstances)², we will proceed to a discussion of judicial accountings.

B. **Judicial Accounting**

There are some situations in which a judicial accounting (SCPA 2208) is preferable or unavoidable. For example:

(i) Where an interested party is under a disability.³ A Guardian ad Litem would be appointed for a person under a disability.

² An informal account may be filed in Court pursuant to SCPA 2202 (“Recording or Filing Instruments Settling Accounts in Part or in Whole”), but it is unlikely a Guardian ad Litem would be involved in such a filing. SCPA 2203 (“Decree on Filing Instruments Approving Accounts”) is on the books, but in my experience it is rarely used. My understanding is that this statute became outdated when SCPA 315(8) was added in 1981. This provides: “8. Nonjudicial settlement of accounts of fiduciaries. Unless the instrument expressly provides otherwise, an instrument settling an account, executed by all the persons upon whom service of process would be required in a proceeding for the judicial settlement of the account, shall be binding and conclusive on all persons upon whom service of process would not be required to the same extent as that instrument binds the persons who executed it.” Only once in approximately forty years of practice have I been involved in a court proceeding involving Section 2203, in the early 1990s, and that was at the instance of a lawyer whose practice had peaked in the 1960s, and who was winding up his affairs.

³ SCPA 103(40) defines a “person under a disability” as: “any person who is (a) an infant, (b) an incompetent, (c) an incapacitated person, (d) unknown or whose whereabouts are unknown or (e) confined as a prisoner”

(ii) Where intransigent beneficiaries can derail the informal accounting by withholding their consent.

(iii) Where the fiduciary has a conflict of interest.

(iv) Where significant amounts of money are involved, and the fiduciary wants the certainty of discharge from liability which is available with a judicial accounting.

(v) An interested party may also petition for a “compulsory accounting” (SCPA 2205). If the Court grants the relief requested, the accounting proceeds in the same manner as a voluntary accounting under SCPA 2208.

II. **BASIC ACCOUNTING PROCEEDINGS**

The most common types of Accountings are for Trustees and for fiduciaries of estates (e.g., administrators, administrators *d.b.n.*, administrators *c.t.a.*, ancillary administrators (*d.b.n.*, *c.t.a.*), executors, preliminary executors and temporary administrators). Other fiduciaries who might account include guardians of the property of an infant or other incapacitated person, attorneys-in-fact (under a power of attorney) and donees under a power-in-trust.

III. **BASIC JUDICIAL ACCOUNTING INSTRUMENTS**

The three basic documents in a judicial accounting proceeding are a Petition, a Citation (or a Waiver of Citation and Consent), and Schedules of Account.

Attached as Exhibit “A” are copies of the following Official Forms Prescribed by the Surrogate’s Court Procedure Act:⁴

- JA-1 Petition for Judicial Settlement of Account
- JA-2 Receipt and Release
- JA-3 Waiver of Citation and Consent in Accounting
- JA-4 Trust Accounting with Instructions
- JA-5 Decree of Judicial Settlement for Executor with Trust or Trustee
- JA-6 Citation

⁴ The attached forms are for purposes of illustration only. Actual official forms may have changed, and some courts may choose to set their own standards as to forms which they will accept.

- JA-7 Non-Trust Accounting with Instructions
- JA-8 Non-Trust Decree of Judicial Settlement
- JA-9 Compulsory Accounting Citation
- JA-10 Petition for Compulsory Accounting and Related Relief

You may also be able to access surrogate's court forms on line at www.courts.state.ny.us/forms/surrogates.

The forms for Schedules of Account require special mention.

(A) "Form" JA-7 ("Non-Trust Accounting with Instructions") isn't actually a form: it is simply instructions. Form JA-7 is not helpful as a guide as to what schedules of account should look like.

(B) There are two basic types of Schedules of account:

(i) Estates with no trusts

These schedules report income receipts separately (Schedule A-2), but otherwise commingle income and principal).

(ii) Trusts, and estates with trusts

Income and principal are important categories for trusts. These schedules report income receipts separately, and they also separate expenses chargeable against principal (Schedule C) from expenses chargeable against income (Schedule C-2), and report principal on hand (Schedule G) separately from income on hand (Schedule G-1).

Attached (as Exhibit "B") for your reference is a website reference to Schedules for an estate with trusts.

IV. **EXAMINATION OF THE ACCOUNT**

An in-depth analysis of the subject matter of accounting schedules is impossible in the few minutes allotted to this presentation. This presentation will concentrate more on the types of issues a Guardian should be looking for in reviewing an accounting (only some of which are contained in the Schedules of Account). For a more detailed guide to the analysis of the

schedules of account, see the attached New York State Bar Association "Practical Skills" outline (attached as Exhibit "C") I prepared for a CLE program a number of years ago.⁵

A. **Review Will or Trust Instrument**

Your ward's interests are usually created by a Will or Trust Instrument (for brevity's sake, hereinafter collectively referred to as "Will"). It may seem obvious, but an essential first step is to review the Will. Some issues are basic (for example, if the Will says your ward is entitled to 1/4 of the residuary estate, the accounting should show that your ward will receive 1/4 of the residuary estate).

There may be other, less obvious, issues. Read the whole instrument, not just the limited portion which defines your ward's interests. You never know what you may find there:

1. There may be a relevant provision located at the other end of the instrument (e.g., a definition of "issue;" an authorization of (or restriction on) discretionary income and principal distributions; allocation of commissions contrary to statute).

2. There may be something relevant hidden in the "powers" section (e.g., restrictions on types of investments).

3. There may be ambiguities which require a construction proceeding under SCPA 1420 (for example, recently when reviewing an accounting and the underlying Will I noticed an "anti-lapse statute" (EPTL 3-3.3) issue which the preparer had missed).

Let your imagination roam free. Don't be confined by the section in which your ward's interest appears, or by the description of your ward's interest by the petitioner - there is no guarantee that the petitioner got it right.

B. **The Total (of the Schedules of Account) Should Equal the Sum of Its Parts**

Again, it may seem obvious, but the schedules should add up and cross-reference properly. While I am not suggesting that all the math be reviewed (especially when the schedules have been prepared using an accounting program), at a minimum the totals on each separate schedule should agree with the total shown for that Schedule in the Summary Statement.

⁵ Certain provisions of the outline relating to allocating expenses and assets between principal and income may have been superseded by the enactment of EPTL 11-A (the new principal and income act), effective 01/01/02.

It may seem even more obvious that the numbers in the Summary Statement should add up, and you should check to see that they do. In a judicial accounting I brought on recently the Schedules were prepared by qualified accountants using the latest programs, and but because of a glitch in the program the numbers in the Summary Statement did not add up.

C. **Expenses (Schedules C [Principal Expenses Paid], C-1 [Unpaid Administration Expenses] and C-2 [Income Expenses Paid] and D [Debts]**

1. **Expenses and Debts In General**

To make up a statistic which empirically sounds correct, 90% of potential objections to an accounting will be found in these Schedules. Large expenses/debts and “unusual” expenses/debts⁶ may require explanation or verification. Some random illustrations: Are cable TV bills or magazine subscriptions (or any other bills normally considered as personal to the decedent) still being paid a year after death? Are there any “5 figure” debts or expenses paid without explanation which are not legitimate on their face? Are storage charges for decedent’s tangibles being paid more than a year after death?⁷

2. **Legal Fees**

You are required to review legal fees (whether paid or unpaid). The attorneys will be required to submit an Affidavit of Legal Services.⁸

The standard for legal fees in estate proceedings is that of Matter of Potts, 241 NY 593, and Matter of Freeman, 34 NY 2d 1.

Uniform Rules for Surrogate’s Courts section 207.45 provides that if an estate has not been fully distributed (or judicial accounting filed) within 2 years of the date when permanent letters testamentary or administration have been issued (or 3 years, if a federal estate tax return is required), a statement as to the status of the estate must be filed with the court. Failure to file such a statement may constitute a ground for disallowance of fees.

⁶ “Unusual expenses” is not a term of art, but it’s like the description of hard core pornography made by Justice Potter Stewart of the Supreme Court in 1964: “I shall not today attempt further to define the kinds of material I understand to be embraced . . . [b]ut I know it when I see it . . .”

⁷ Recently in an accounting proceeding I objected to the Executors paying \$15,000 over a 7 year period to store \$500 of decedent’s clothes.

⁸ 22 NYCRR section 207.42.

3. **Commissions**

The area of fiduciary commissions is densely complicated. Some rules are arcane, others counter-intuitive.⁹ Some issues and areas to examine:

a. **As Always, Check the Basics**

Assuming there is no question as to whether the assets are commissionable, are the correct commission tables being used?¹⁰ Is the math correct? Are Executors' commissions calculated separately on "receiving" commissions and "paying" commissions? When trusts are involved, are Executors' commissions properly allocated against principal and income?

b. **Specific Legacies; Real Property**

SCPA 2307(2) provides that commissions are not payable on specific legacies. Commissions are payable on general legacies. See EPTL 1-2.8 for the definition of a "general disposition" and EPTL 1-2.17 for the definition of a "specific disposition." Commissions also are not payable on real property, unless the Executors have in some manner exercised "dominion and control" over the real property (such as selling the real property to raise cash needed for debts, expenses and/or taxes).

c. **Advance Payment of Commissions**

SCPA 2307(1) prohibits payment of Executors' commissions prior to the judicial accounting,¹¹ unless application for advance payment was made pursuant to SCPA 2310 or 2311. Unauthorized advance payment of commissions can result in surcharge and/or payment of interest on unauthorized payments.

⁹ For a detailed analysis of the commission base for Executors' commissions, see Turano and Radigan, "New York Estate Administration" (2008 Edition) at Section 15.06.

¹⁰ Executors' commissions for individuals are governed by SCPA 2307 (commissions for corporate Executors are usually governed by their fee schedules); Trustees' commissions for individuals are governed by SCPA 2308 and 2309; Trustees' commissions for corporate Trustees are governed by the "reasonable compensation" provisions of SCPA 2312. A sample computation of Executors' commissions is included in the Schedules of Account referenced in Exhibit "B."

¹¹ "... on the settlement of the account ... the court must allow to him ... for his services as fiduciary ... the following commissions..." As a practical matter, the rules as to when payment can be made are more flexible if the account is settled non-judicially.

d. **Commissions for Attorney-Executor**

If an attorney is also acting as an Executor, SCPA 2307-a requires that the testator execute a written acknowledgment of disclosure that Executors' commissions are payable in addition to legal fees (and requires certain additional information). In the absence of such disclosure, the commissions of an attorney who also acts as Executor shall be one-half the commissions to which he would otherwise be entitled.¹²

e. **Trustees' Commissions for "Old" Trusts**

Commission rates and commissionability of trust assets (and the proportion in which commissions are charged against principal and income) have changed over the years. If a trust is old and there has not been an accounting for many years, you should check as to the rates used and the allocation of the charges for commissions.

Attached as Exhibit "D" is an analysis of Trustee commissions in periods before the present 1993 and 2001 amendments.

V. **REVIEW FIDUCIARY'S CONDUCT**

The fiduciary's conduct should be reviewed as to the following areas, among others:

A. **Self-Dealing**

For example, were there any purchases and sales to fiduciary without court approval?

B. **Conflict of Interest**

For example, did the fiduciary steer business to himself or a relative, without an express exoneration of conflicts contained in the governing instrument?

C. **Exercise of Discretion**

For example, if you as Guardian ad Litem represent a remainderman of a trust, and there have been significant principal invasions to the income beneficiary, were such invasions authorized by the governing instrument?

¹² Recently in an accounting in which I filed objections, the testator had executed a 2307-a disclosure for his Will and the first two codicils, but not the third codicil. There apparently is no precedent as to whether there has been compliance with the requirements of SCPA 2307-a under these circumstances.

D. **Marshaling Assets**

For example, are there assets on Schedule A (statement of original assets on hand) that are not on hand at the end of the accounting period, with no explanation as to their sale, distribution or other transfer out of the account? Also, Schedule A should be cross-checked against the estate tax return, or if none, against the Inventory of the Executor or Administrator required to be filed in Court (22 NYCRR section 207.20).

E. **Payment of Claims**

For example, have all the claims reflected in the accounting been paid or otherwise dealt with? Should the fiduciary have asserted a statute of limitations defense against a claim?

F. **Tax Returns**

Were the necessary tax returns filed (such as decedent's final income tax returns, estate tax returns, fiduciary income tax returns)? Were penalties or interest paid for late filing?

G. **Investment of Assets**

1. **Prudent Investor Statute (EPTL 11-2.3)**

For example, did the estate contain disproportionate investments in 1 or 2 stocks or other assets which dropped significantly in value during the accounting period, which the fiduciary should have diversified, or were there other investments which dropped significantly in value? A drop in the value of an investment of, say, 25% may prompt the Guardian ad Litem to investigate more closely the fiduciary's investment performance, and require the accounting fiduciary to provide an explanation of the loss. See Matter of Janes, 90 NY2d 41 (1997), in which the Court of Appeals surcharged the Executors of an estate that was over-invested in Kodak stock.

Did the governing instrument specifically permit retention of assets that originally constituted a disproportionate share of the estate - which although not a perfect defense to imprudent retention, nevertheless gives the fiduciary some ground to stand on?

2. **Principal and Income Act**

There can be Principal and Income Act questions under EPTL 11-2.1, et. seq. (prior to January 1, 2002), and under EPTL Article 11-A (on or after January 1, 2002). For example, were estate or trust expenses properly charged against principal or income? Were receipts properly credited to principal or income?

VI. **THE GUARDIAN'S REPORT**¹³

Your investigations will culminate in a report that you will submit to the Court. The Guardian ad Litem is required to file his or her Report or Objections “within 20 days after the appointment unless for cause shown the time to file such Report or Objections is extended by the Surrogate.” Your report should cover some or all of the following:

A. **Qualification to Act as Guardian; Review of Court Files**

The report should recite that the Guardian has filed his or her qualification papers, and reviewed the Court files.¹⁴

B. **Jurisdiction**

There are numerous jurisdictional issues and questions which may need to be addressed.¹⁵

1. **Service on Your Ward and Necessary Parties**

The citation should be served on your ward, unless he or she is an infant under the age of 14.¹⁶

¹³ Attached for reference as format are: Exhibit “E” (a relatively simple Report of Guardian ad Litem for the “Susan” Estate); Exhibit “F” (Report of Guardian ad Litem with Schedule by Schedule comments); and Exhibit “G” (Report of Guardian ad Litem with Extensive Discussion of Jurisdictional Issues.)

¹⁴ As a practical matter, one of the first things I do when appointed as a Guardian is to request from Petitioner’s attorney a copy of the papers filed in Court. I will review these papers prior to examining the Court files.

¹⁵ See the Report attached as Exhibit “G” for a format for presenting in your Report of jurisdictional and other issues discussed below. While the Report is for a probate proceeding, the manner of reporting on these and other issues can be similar to those in an accounting proceeding.

¹⁶ SCPA 307(4).

If your ward is an infant, service should also be made on his or her parent (unless Petitioner is the infant's parent).¹⁷

If your ward is institutionalized, process should also be served on an employee of the institution authorized to accept service of citation.

Admissions of due and timely service are not allowed. Waivers and Consents should also probably be avoided.

2. **Service on Other Necessary Parties**

The due diligence of Petitioner should be examined if Petitioner claims there are necessary parties who cannot be found. If Petitioner's due diligence seems insufficient, the Guardian might contact the Petitioner, or report his or her concern to the Court.¹⁸

Timeliness and adequacy of service on other necessary parties should be examined.¹⁹

3. **Review Petition**

You should review the petition, to determine whether all necessary parties named in the petition have timely received citation in the accounting proceeding, or have waived process.

4. **Jurisdiction As To Adopted Persons**

In Exhibit "G" there were questions as to whether jurisdiction was required over a person who might have been "adopted out".

¹⁷ Ibid.

¹⁸ In the Estate accounting which was the subject of Exhibit G, I was concerned that the Petitioner had not exercised due diligence in trying to locate unknown interested parties. Before filing my Guardian's Report, I expressed my concern to Petitioner. He then did an internet search of persons in New York State with the same last name as decedent (which was not a common name). He had 5 possible "hits," one of which turned out to be a relative of decedent and a necessary party to the proceeding.

¹⁹ See SCPA 308(1).

C. **Meeting With Your Ward**

Your Report should discuss your meeting with your ward. A meeting with your ward can be significant, even if your ward cannot communicate or comprehend the substance of your meeting. What you come away with from the meeting which can be significant.²⁰

D. **Objections**

Filing objections should be a last resort, and will be discussed in Section VII of this outline.

E. **Recommendations to the Court**

After discussing issues, you should make your recommendations to the Court. It is important to remember that, in addition to representing your ward, you are also an officer of the Court. It may be that your recommendations should be adverse to the interests of your ward.

“The primary allegiance of the guardian ad litem is the ward, but he or she has a concurrent obligation as an officer of the court to make a thorough, fair and objective report.” Guidelines for Guardians Ad Litem, May, 2003, revised and edited by the Committee to Revise Guidelines for Guardians Ad Litem, at Page 22.²¹

²⁰ In a meeting with one of my wards I realized that, although distorted by his bipolar condition, my ward had a good grasp of the circumstances of the accounting proceeding. He had very strong opinions about the proceeding. After obtaining permission from the Court I had my ward attend a court calendar call, where he was given the opportunity to express his concerns directly to the Court. I thought this to be important, so that he wouldn't have the feeling that his concerns had been disregarded. Although the proceeding has long been over, he calls me every few months to discuss his concerns as to what will happen when his mother dies, and recently told me how pleased he was with my representation of him in the probate proceeding, and in my continuing communications with him.

²¹ <http://www.nycourts.gov/ip/gfs/galtrainingmanual.pdf>

VII. **OBJECTIONS**

If there are imperfections in the accounting, the Guardian ad Litem should attempt to resolve the issues prior to filing Objections. If the issues cannot be resolved informally, the Guardian ad Litem can file Objections, either in his or her Report, or by separate Objections.

A. **Deposition of Fiduciary Before Filing Objections**

You can depose the fiduciary prior to filing Objections (SCPA 2211(2)). It may be that a deposition is necessary to determine whether Objections should be filed.

B. **Basis for Objections**

The basis for the Objections would be the lines of inquiry discussed above.

C. **Your Ward's Interests**

It is worthwhile to observe here that your ward should have a pecuniary interest in any Objections you might file. Even if the fiduciary is clearly responsible for acts which require surcharge, as Guardian ad Litem you do not have the mandate to file Objections unless your ward's economic interests are adversely affected.

Even if your ward's interest is not sufficient to warrant the filing of Objections, you should raise your concerns in your Report.

D. **Pretrial Proceedings; Settlement**

If Objections are filed, you will be required to participate in pre-trial proceedings. As matters progress, you would do well to encourage (where circumstances merit) appropriate settlement of the matter, and participate in a settlement, though such controversies can only be settled with leave of court.

S.C.F.D.

EXHIBITS

- A Copies of the Official Judicial Accounting Forms prescribed by the Surrogate's Court Procedure Act
- B Website address for Schedules of Accounts for an estate with trusts
- C Outline 1994 N.Y.S.B.A. Practical Skills Course "Preparation of the Account and Filing the Accounting"
- D Analysis of Trustee commissions in periods before the present 1993 and 2001 amendments
- E Format of a relatively simple Report of Guardian Ad Litem (for the "Susan" Estate)
- F Report of Guardian ad Litem with Schedule by Schedule comments
- G Report of Guardian ad Litem with Extensive Discussion of Jurisdictional Issues

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10 Things a Guardian Should First Check in an Accounting

1. **Jurisdiction:**

Has jurisdiction been obtained over all necessary parties (by citation or waiver and consent)? Were citations served within the time limits of SCPA 307 (10 or 20 or 30 days)? Were parents of minors served? Were infants 14 or older also served? Is required information about minors set forth in petition?

2. **The Will:**

Does the accounting party have it right? Are all bequests properly shown in the schedules? Are the necessary people cited? Does the will contain any special fiduciary powers or authorizations? Read the whole will and not just dispositive provisions?

3. **Numbers:**

Do numbers in Summary Statement match up with number totals in Schedules? Do numbers on the Summary Statement add up correctly? Do numbers in Schedules add up correctly? Is the cash reconciliation accurate? Zero sum: is every asset shown as received (e.g., Sch. A or A-1 [principal or income received] or F [new investment] shown as disposed of [Sch. A-1 or B-1] or on hand [G or G-1]?)

4. **Losses on Investments (Realized or Unrealized):**

As a general rule of thumb, if there is a loss of 25% or more on an investment, a GAL should make inquiry as to the circumstances, and report on the results of that inquiry.

5. **Proper Format:**

For estate accountings there are different formats for Estates without Trusts (Form JA-7) and Trusts and Estates (Form JA-4).

6. **Family Tree:**

Required if (i) there are no distributees, (ii) only one distributee, or (iii) “where the relationship to the decedent is grandparents, aunts, uncles, first cousins or first cousins once removed” (Uniform Rule 207.16). This becomes relevant for accountings for administrators of intestate estates.

7. **Due Diligence:**

Uniform Rule 207.16(d) requires that a petitioner exercise “due diligence” to find missing distributees. In some cases, the citation must be addressed to “unknown distributees” and the citation must be published. This becomes relevant for accountings for administrators of intestate estates.

8. **Proposed Schedule of Distributions:**

Does it accurately set forth the way the assets should be distributed?

9. **Commission Calculations:**

Are they accurate? E.g., are specific bequests and non-probate assets excluded from estate commissions? Are estate commissions properly separately applied to receiving and to paying? Are computations of interim annual commissions for trusts included?

10. **Debts and Expenses:**

As a general rule, debts and expenses are the source of a majority of the problems with an accounting. Principal and income charges: are they accurate (e.g., trust annual commissions 2/3 to principal and 1/3 to income)? Are debts and expenses on the correct schedules? Are expenses proper (e.g., are payments shown for cable TV for years after death? Are there beauty parlor expenses as debts of a male decedent? Do professional fees (e.g., legal and accounting) look appropriate? Should affidavits of services be required?

Exhibit

A

For Office Use Only

Filing Fee Paid \$ _____

Receipt No: _____

DO NOT LEAVE ANY ITEMS BLANK

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X
ACCOUNTING BY _____

as the _____

of the ESTATE OF _____

a/k/a _____
Deceased.

-----X

PETITION FOR JUDICIAL
SETTLEMENT OF ACCOUNT OF

- Executor
- Administrator
- Trustee
- Other [specify] _____

File No. _____

TO THE SURROGATE'S COURT, COUNTY OF _____

It is respectfully alleged:

1. The name(s), and address(es) of the petitioner(s), the type and date of letters issued, and the amount and surety of petitioner's (s') bond, if any, are as follows:

Name: _____

Address: _____
(Street Address) (City/Town/Village)

(County) (State) (Zip) (Telephone Number)

Mailing address: _____
(if different from above)

Type of letters issued: _____ Date letters issued: _____

Amount of bond: \$ _____ Name of surety: _____

Name: _____

Address: _____
(Street Address) (City/Town/Village)

(County) (State) (Zip) (Telephone Number)

Mailing address: _____
(if different from above)

Type of letters issued: _____ Date letters issued: _____

2. The decedent's name, date of death and domicile are as follows:

Name: _____ Date of death: _____

Domicile: _____
(Street Address) (City/Town/Village)

(State) (Zip Code)

Township of: _____ County of: _____

3. The petitioner(s) present (s) and render (s) herewith, a verified account of petitioner's (s') proceedings in this estate or trust, for the period from _____ to _____, showing the gross value of assets, including principal and income, to be the sum of \$ _____.

- 4. (a) An order was entered in this Court on _____, 20__.
- Exempting the estate from tax
- Fixing and assessing the tax due

[Attach a copy of the tax order and receipt]

- (b) The following return (s) (was) (were) filed:
 - ET-90 [For decedent's dying on or after May 25, 1990].
A copy was filed with the Surrogate's Court Yes No
 - TT-385 [For decedent's dying before May 25, 1990]
 - 706 or 706NA

The estate taxes with respect to this estate were paid in full.
[Attach a copy of letter of discharge.]

- (c.) No tax proceeding or return was required for this estate.

5. The rendering of such account at this time is proper because
check appropriate reason]

- seven months have elapsed since letters were issued to petitioner(s);
- letters issued to the petitioner(s) have been revoked,
- more than one year has elapsed since the preceding account of the petitioner(s) was settled;
- other reason [specify]:

6. The names and post-office addresses of all persons and parties interested in this proceeding who are required to be cited under the provisions of Surrogate's Court Procedure Act §2210, or otherwise, or concerning whom or which the Court is required to have information, are set forth in subdivision (a) or (b):

- (a) All persons and parties so interested herein who are of full age and sound mind, or which are corporations or associations, are as follows:

Name	Nature of Interest	P.O. Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(b) All persons so interested herein who are infants or incompetents or persons believed to be mentally incapable to adequately protect their rights, or persons whose existence, identity, or whereabouts are unknown (including persons who are virtually represented under SCPA §315) are as follows:

[Furnish all information specified in **NOTE** at bottom of page]

Name	Nature of Interest	P.O. Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[NOTE: In the case of each infant, state (a) name, birth date, age, nature of interest, domicile, residence address, and the person with whom he/she resides; (b) whether or not he/she has a guardian or testamentary guardian, and whether or not his/her father, or if he/she be dead, his/her mother is living; and (c) the name and post office address of any guardian and any living parent. In the case of each incompetent or person incapable of adequately protecting his/her rights, state (a) name, nature of interest, and post office address; (b) facts regarding his/her incompetency, including whether or not a committee has been appointed and whether or not he/she has been committed at any institution; (c) the names and post office addresses of any committee, conservator, guardian, and person or institution having care and custody of him/her, and any relative or friend having an interest in his/her welfare. In the case of unknowns, describe in identical language to be used in citation for publication. In the case of a person confined as a prisoner, state place of incarceration. With respect to virtual representation see Uniform Court Rule, §207.18.]

- 7. There are no persons interested in this proceeding other than those herein about mentioned.
- 8. No prior application has been made to this or any other court for the relief requested in this petition.

WHEREFORE the petitioner(s) pray (s) that the account of proceedings be judicially settled

[specify any other relief requested.]

and that process be issued to all necessary parties who have not appeared to show cause why the relief requested should not be granted; and that an order be granted directing the service of process pursuant to the provisions of SCPA Article 3 upon such persons named in Paragraph (6) whose names or whereabouts are unknown and cannot be ascertained or who may be persons on whom service by personal delivery cannot be made.

Dated: _____

1. _____
(Signature of Petitioner)

(Print Name)

2. _____
(Signature of Petitioner)

(Print Name)

3. _____
(Name of Corporate Petitioner)

(Signature of Officer)

(Print Name and Title of Officer)

VERIFICATION

[For use when petitioner is an individual]

STATE OF NEW YORK)
COUNTY OF _____) ss.:

The undersigned, the petitioner (s), named in the foregoing petition, being duly sworn, say (s): (I) (We) have read the foregoing petition subscribed by me (us) and know the contents thereof, and the same is true of (my) (our) own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters (I) (we) believe it to be true.

(Signature of Petitioner)

(Signature of Petitioner)

(Print Name)

(Print Name)

Sworn to before me on _____, 20__

Notary Public
Commission Expires:
(Affix Notary Stamp or Seal)

Signature of Attorney: _____

Print Name: _____

Name of Attorney: _____

Tel. No.: _____

Address of Attorney: _____

VERIFICATION

[For use when petitioner is a bank or trust company]

STATE OF NEW YORK)
COUNTY OF _____) ss.:

I, the undersigned, a _____ of
(Title)

(Name of Bank or Trust Company)

being duly sworn, say (s),

I have read the foregoing petition subscribed by me and know the contents thereof, and the same is true of my own knowledge, except as to the matters stated to be alleged upon information and belief, and as to those matters I believe it to be true.

(Name of Bank or Trust)

BY _____
(Signature of Officer)

(Print Name and Title)

Sworn to before me on _____, 20____
Notary Public
Commission Expires:
(Affix Notary Stamp or Seal)

Signature of Attorney: _____

Print Name: _____

Name of Attorney: _____

Tel. No.: _____

Address of Attorney: _____

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X
ACCOUNTING BY _____

RECEIPT AND RELEASE

File No. _____

as the _____

of the ESTATE OF _____

a/k/a _____
Deceased.

-----X

The undersigned, being of full age, sound mind and under no disability, and entitled to share in the estate of the above named decedent as a [check one] legatee under a will, distributee of an intestate share, trust beneficiary, creditor of the estate, other [specify]

- (a) Acknowledges that each fiduciary named above has fully and satisfactorily accounted for all assets of the estate;
- (b) Approves the written account verified on _____, 20 ____ as submitted to the undersigned;
[Delete paragraphs (a) and (b) if the undersigned is not interested in or affected by the amount of the residuary estate or trust, or if being made pursuant to a decree of the court.]
- (c) Acknowledges receipt of money paid or property transferred or delivered as follows:

money (cash or check): \$ _____

the following property: valued at \$ _____

The following payment and/or transfer is in full payment or distribution of :

- a legacy under Paragraph/Article _____ of the will or trust;
- a claim against the estate;
- the amount directed to be paid by a decree of this court dated:
- other [specify]:

- (d) Releases and discharges each fiduciary named above from all liability to the undersigned for any and all matters relating to or derived from the administration of the estate; waives the issuance and service of a citation to attend any and all proceedings for the judicial settlement of the account; and authorizes the Surrogate to make and enter a decree settling the account and fully releasing and discharging each fiduciary named above as to all matters embraced therein.

Dated: _____

(Signature)

(Corporate Name)

(Print Name)

(Signature of Officer)

STATE OF NEW YORK)
COUNTY OF _____) ss.:

On _____, 20_____, before me personally appeared

[INDIVIDUAL]

[] _____ to me known and known to me to be the person

described in and who executed the foregoing receipt and release and duly acknowledged the execution thereof.

[CORPORATION]

[] _____ to me known, who duly swore to the foregoing instrument and who did say that he/she resides at _____ and that he/she is a _____ of _____ the corporation/national banking association described in and which executed such instrument; and that he/she signed his/her name thereto by order of the Board of Directors of the corporation.

Notary Public
Commission Expires:
(Affix Notary Stamp or Seal)

Name of Attorney: _____
Address of Attorney: _____

Tel. No.: _____

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X
ACCOUNTING BY _____

as the _____

of the ESTATE OF _____

a/k/a _____
Deceased.

-----X

WAIVER OF CITATION AND CONSENT
IN ACCOUNTING

File No. _____

The undersigned, being of full age, and sound mind, residing at the address written below, having an interest in this proceeding, waives the issuance and service of citation in this proceeding, and consents to the submission of a decree settling the account as filed and adjusted without further notice. I acknowledge receipt of a copy of the summary statement of account.

Date	Signature	Street Address	Interest
	Print Name	City/Town/Village	State/Zip

STATE OF NEW YORK)
COUNTY OF _____) ss.:

On _____, 20____, before me personally appeared

[INDIVIDUAL]

_____ to me known and known to me to be the person described in and who executed the foregoing waiver and consent and duly acknowledged the execution thereof.

[CORPORATION]

_____ to me known, who duly swore to the foregoing instrument and who did say that he/she resides at _____ and that he/she is a _____ of _____ the corporation/national banking association described in and which executed such instrument; and that he/she signed his/her name by order of the Board of Directors of the corporation.

Notary Public
Commission Expires:
(Affix Notary Stamp or Seal)

Name of Attorney: _____ Tel. No.: _____

Address of Attorney: _____

[Note: You may request a copy of the full account from the petitioner or petitioner's attorney.]

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X
ACCOUNTING BY _____

as the _____

of the ESTATE OF _____

a/k/a _____
Deceased.

-----X

TO THE SURROGATE'S COURT OF THE COUNTY OF _____

The undersigned does hereby render the account of proceedings as follows:

Period of account from _____ to _____. This is a
[] (final) [] (intermediate) account.

ACCOUNTING BY:

- [] Executor with Trust
- [] Trustee
- [] Other [Specify] _____

File No. _____

[The instructions concerning the schedules need not be stated at the head of each schedule. It will be sufficient to set forth only the schedule letter and heading. For convenience of reference, the schedule letter and page number of the schedule should be shown at the bottom of each sheet of the account.]

PRINCIPAL

- Schedule A - Principal Received, page _____
- Schedule A - 1 - Realized Increases, page _____
- Schedule B - Realized Decreases, page _____
- Schedule C - Funeral and Administration Expenses and Taxes, page _____
- Schedule C - 1 - Unpaid Administration Expenses, page _____
- Schedule D - Creditor's Claims, page _____ **[Does not apply in a trustee's account]**
- Schedule E - Distributions of Principal, page _____
- Schedule F - New Investments, Exchanges and Stock Distribution, page _____
- Schedule G - Principal remaining on Hand, page _____

INCOME

- Schedule A-2 - Income Collected, page _____
- Schedule C-2 - Administration, Expenses Chargeable to Income, page _____
- Schedule E-1 - Distributions of Income, page _____
- Schedule G-1 - Income Remaining on Hand, page _____
- Schedule H - Interested Parties, page _____
- Schedule I - Computation of Commissions, page _____
- Schedule J - Other Pertinent Facts and Cash Reconciliation, page _____
- Schedule K - Estate Taxes Paid and Allocation of Estate Taxes, page _____

SUMMARY

PRINCIPAL ACCOUNT

CHARGES:

Schedule "A"	-	(Principal received)	\$ _____
Schedule "A - 1"	-	(Realized increases in principal)	\$ _____
Total principal charges			\$ _____

CREDITS:

Schedule "B"	-	(Realized decreases in principal)	\$ _____
Schedule "C"	-	(Funeral and administration expenses)	\$ _____
Schedule "D"	-	(Creditor's claims actually paid) [Does not apply in trustee's account]	\$ _____
Schedule "E"	-	(Distributions of principal)	\$ _____
Total principal credits			\$ _____
Principal balance on hand shown by Schedule "G"			\$ _____

INCOME ACCOUNT

CHARGES:

Schedule "A-2"	-	(Income collected)	\$ _____
Total income charges			\$ _____

CREDITS

Schedule "C-2"	-	(Administration expenses)	\$ _____
Schedule "E-1"	-	(Distributions of Income)	\$ _____
Total income credits			\$ _____
Balance of undistributed income remaining on hand as shown in Schedule "G-1"			\$ _____

COMBINED ACCOUNTS

Principal on hand	Cash	\$ _____
	Other Property	\$ _____
	Total	\$ _____
Income on hand:	Cash	\$ _____
	Other Property	\$ _____
	Total	\$ _____
Total on hand as of _____, 20____		\$ _____

The foregoing principal balance of \$ _____ consists of \$ _____ in cash and \$ _____ in other property on hand as of the _____ day of _____, 20____. It is subject to deduction of estimated principal commissions amounting to \$ _____ as shown in Schedule I, and to the proper charge to principal of expenses of this accounting.

The foregoing income balance of \$ _____ consists of \$ _____ in cash and \$ _____ in other property on hand as of the _____ day of _____, 20____. It is subject to deduction of estimated income commissions amounting to \$ _____ as shown in Schedule I, and to the proper charge to income expenses of this accounting.

The attached schedules are part of this account.

(Name of Corporate Fiduciary)

(Signature of Fiduciary)

(Signature of Officer)

(Signature of Fiduciary)

AFFIDAVIT OF ACCOUNTING PARTY

STATE OF NEW YORK)
COUNTY OF _____) ss.:

_____ being duly sworn, says: that the schedules of assets of the estate reported herein are true and complete and include all money and property of any kind, and all increment thereon, which have come into the hands of any of the accounting parties or have been received by any other persons for the use of any accounting party by order of authority of such accounting party, and include all indebtedness due by any accounting party to the estate whether discharged or not; that the moneys stated in the account as collected were all that could be collected; that all claims for credit for losses or decreases of value of assets are correctly reported; that the reported payments out of estate assets for funeral and administration expenses were actually made and made in the amounts scheduled; that the reported payments to creditors and beneficiaries were actually made at the dates and in the amounts scheduled; that no payments have been made by any accounting party on any fiduciary's claims against the estate except after prior approval and allowance by the Surrogate; that all receipts and disbursements are correctly and fully reported and scheduled; that the accounting parties do not know of any error in the account or in any schedule thereof or of any matter or thing relating to the estate omitted therefrom to the prejudice of rights of any creditor or of any person interested in the estate; and that the schedule of commissions has been computed in conformity with the statute regulating commissions and the Rules of the Surrogate's Court applicable thereto.

Sworn to before me on _____, 20____

Signature

Notary Public
Commission Expires:
(Affix Notary Stamp or Seal)

Print Name

Signature of Attorney: _____

Tel. No.: _____

Address of Attorney: _____

INSTRUCTIONS

PRINCIPAL

Schedule A

Statement of Principal Received

This schedule must contain an itemized statement of all the moneys and other personal property constituting principal for which each accounting party is charged, together with the date of receipt or acquisition of such money or property. If real property has been sold by the fiduciary, this schedule must set forth the proceeds of sale of such property, including a copy of the closing statement.

Schedule A-1

Statement of Increases on Sales, Liquidation or Distribution

This schedule must contain a full and complete statement of all realized increases derived from principal assets whether due to sale, liquidation, or distribution or any other reason. It should also show realized increases on new investments or exchanges. In each instance, the date of realization of the increase must be shown and the property from which the increase was derived must be identified.

Schedule B

Statement of Decreases Due to Sales, Liquidation, Collection, Distribution or Uncollectibility

This schedule must contain a full and complete statement of all realized decreases on principal assets whether due to sale, liquidation, collection or distribution, or any other reason. It should show decreases on new investments or exchanges and also sales, liquidations or distributions that result in neither gain nor loss. In each instance, the date of realization of the decrease must be shown and the property from which the decrease was incurred must be identified. It should also report any asset which the fiduciary intends to abandon as worthless, together with a full statement of the reasons for abandoning it.

Schedule C

Statement of Funeral and Administration Expenses and Taxes Charged to Principal

This schedule must contain an itemized statement of all moneys chargeable and paid for funeral, administration and other necessary expenses, together with the date and the reason for each expenditure. Consolidate all similar expenditures; i.e. funeral expenses, taxes, accountant fees, legal fees, filing fees, commissions, other. Where the will directs that all inheritance and death taxes are to be paid out of the estate, credit for payment of the same should be taken in this schedule.

Schedule C-1

Statement of Unpaid Administration Expenses

This schedule must contain an itemized statement of all unpaid claims for administration and other necessary expenses, together with a statement of the basis for each such claim.

Schedule D

Statement of All Creditor's Claims

This schedule must contain an itemized statement of all creditor's claims subdivided to show:

1. Claims presented, allowed, paid and credited and appearing in the Summary Statement together with the date of payment.
2. Claims presented and allowed but not paid.
3. Claims presented but rejected, and the date of and the reason for such rejection.
4. Contingent and possible claims.
5. Personal claims requiring approval by the court pursuant to SCPA §1805.

In the event of insolvency, preference of various claims should be stated, with the order of their priority.

Schedule E

Statement of Distributions of Principal

This schedule must contain an itemized statement of all moneys paid and all property delivered from principal to the beneficiaries, legatees, trustees, surviving spouse or distributees of the deceased, the date of payment or delivery thereof, and the name of the person to whom payment or delivery was actually made.

Where estate taxes are required to be apportioned and payments have been made on account of the taxes, the amounts apportioned in Schedule K against beneficiaries of the estate shall be charged against the respective individuals share.

Schedule F

Statement of New Investments, Exchanges and Stock Distributions

This schedule must contain an itemized statement of (a) all new investments made by the fiduciary with the date of acquisition and cost of all property purchased, (b) all exchanges made by the fiduciary, specifying dates and items received and items surrendered, and (c) all stock dividends, stock splits, right and warrants received by the fiduciary, showing the securities to which each relates and their allocation as between principal and income.

Schedule G

Statement of Principal Remaining on Hand

This schedule must contain an itemized statement showing all property constituting principal remaining on hand including a statement of all uncollected receivables and property rights due to the estate. Show the date and cost of all such property that was acquired by purchase, exchange or transfers made or received, together with the date of acquisition and the cost thereof and indicate such sums in the appropriate lines of the summary schedule. Show all unrealized increases and decreases relating to assets on hand, and report the same in the appropriate places in the summary schedule.

INCOME

Schedule A-2

Statement of All Income Collected

This schedule must contain a full and complete statement of all interest, dividends, rents and other income received, and the date of each receipt. Each receipt must be separately accounted for and identified, except that where a security had been held for an entire year, the interest or ordinary dividends may be reported on a calendar year basis.

Schedule C-2

Statement of Administration Expenses Charged to Income

This schedule must contain an itemized statement of all moneys chargeable to income and paid for administration, maintenance and other expenses, together with the date and reason for each such expenditure.

Schedule E-1

Statement of Distribution of Income

This schedule must contain an itemized statement of all moneys paid and of property delivered out of income to the beneficiaries, the date of payment or delivery thereof and the name of the person to whom payment or delivery was actually made. If convenient, distributions of income to any one beneficiary may be reported by the calendar year.

Schedule G-1

Statement of Income on Hand

This schedule must contain a statement showing all undistributed income.

Schedule H

Statement of Interested Parties

This schedule must contain the names of all persons entitled as beneficiary, legatee, devisee, trustee, surviving spouse, distributee, unpaid creditor or otherwise to a share of the estate or fund, with their post office addresses and the degree of relationship, if any, of each to the deceased, and a statement showing the nature of and the value or approximate value of the interest of each such person.

This schedule also must contain a statement that the records of this court have been searched for powers of attorney and assignments and encumbrances made and executed by any of the persons interested in or entitled to a share of the estate and a list detailing each power of attorney, assignment and encumbrance, disclosed by such search, with the date of its recording and the name and address of each attorney in fact and of each assignee and of each person beneficially interested under the encumbrance to in the respective instruments, and also whether the accounting party had any knowledge of the execution of any such power of attorney or assignment not so filed and recorded.

Schedule I

Statement of Computation of Commissions

This schedule must contain a computation of the amount of commissions due upon this accounting. See Uniform Court Rule, §207.40 (d).

Schedule J

Statement of Other Pertinent Facts, and Cash Reconciliation

This schedule must contain a statement of all other pertinent facts affecting the administration of the estate and the rights of those interested therein. It must also contain a statement of any real property left by the decedent that it is not necessary to include as an estate asset to be accounted for, a brief description thereof, its gross value, and the amount of mortgages or liens thereon at the date of death of the deceased. A cash reconciliation must also be set forth in this schedule so that verification with bank statements and cash on hand may be readily made.

Schedule K

Statement of Estate Taxes Paid and Allocation Thereof

This schedule must contain a statement showing all estate taxes assessed and paid with respect to any property required to be included in the gross estate of the decedent under the provisions of the Tax Law or under the laws of the United States. This schedule must also contain a computation setting forth the proposed allocation of taxes paid and to be paid and the amounts due the estate from each person in whose behalf a tax payment has been made and also the proportionate amount of the tax paid by each of the named persons interested in this estate or charged against their respective interest, as provided in §2-1.8 of the Estates, Powers and Trusts Law.

Where an allocation of taxes is required, the method of computing the allocation of said taxes must be shown in this schedule.

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X

ACCOUNTING BY _____

as the _____

of the ESTATE OF _____

a/k/a _____

Deceased.

-----X

FINAL/INTERMEDIATE
DECREE OF JUDICIAL SETTLEMENT
EXECUTOR WITH TRUST OR TRUSTEE

File No. _____

A petition praying for a decree judicially settling the final/intermediate account having been presented and filed in this court and the time to present claims against the estate having expired, and a citation having been issued directed to all persons interested in this proceeding requiring them to show cause why a decree should not be granted judicially settling the account prayed for in the petition, and the citation having been returned with proof of due service thereof on the following:

and duly executed waivers of the service of citation or receipts and releases having been filed for the following:

and the following parties having appeared in answer to the citation:

and _____ attorneys, having appeared for the petitioner, and there being no other appearances; and the Surrogate having appointed as guardian ad litem for the following persons under a disability:

and each guardian ad litem having filed a report recommending that the account be judicially settled and no objection having been filed to the account;

and it appearing that all tax returns required by law have been filed and all New York State estate taxes have been fully paid, provision made therefore, or the estate is exempt from tax; and the Surrogate having examined the account and having found that each petitioner has fully accounted for all of the monies and property of the estate that have come into the petitioner's hands for the period of the account, as adjusted, it is

ORDERED, ADJUDGED AND DECREED, that the final/intermediate account be and the same hereby is judicially settled and allowed as filed (and adjusted), and that the following is a summary thereof as settled:

SUMMARY

PRINCIPAL ACCOUNT

CHARGES:

Schedule "A"	-	(Principal received)	\$ _____
Schedule "A - 1"	-	(Realized increases in principal)	\$ _____
Total Principal Charges			\$ _____

CREDITS:

Schedule "B"	-	(Realized decreases in principal)	\$ _____
Schedule "C"	-	(Funeral and administration expenses)	\$ _____
Schedule "D"	-	(Creditor's claims actually paid)	\$ _____
[Does not apply in a trustee's account]			
Schedule "E"	-	(Distributions of principal)	\$ _____
Total Principal Credits			\$ _____
Principal balance on hand shown by Schedule "G"			\$ _____

INCOME ACCOUNT

CHARGES:

Schedule "A-2"	-	(Income collected)	\$ _____
Total income charges			\$ _____

CREDITS

Schedule "C-2"	-	(Administration expenses)	\$ _____
Schedule "E-1"	-	(Distributions of Income)	\$ _____
Total income credits			\$ _____
Balance of undistributed income remaining on hand as shown in Schedule "G-1"			\$ _____

COMBINED ACCOUNTS

Principal on hand	Cash	\$ _____
	Other Property	\$ _____
	Total	\$ _____

Income on hand:	Cash	\$ _____
	Other Property	\$ _____
	Total	\$ _____
Total on hand as of _____, 20____		\$ _____

and it is further

ORDERED, ADJUDGED AND DECREED, that petitioner(s) pay the remaining cash and transfer, assign and deliver the other remaining assets as shown in the account as follows:

To the petitioner:
as and for commissions the sum of \$ _____

To the petitioner:
as and for commissions the sum of \$ _____

To the attorney:
for legal services rendered for
the benefit of the estate the sum of \$ _____

and for costs and disbursements
(which sums are in addition to any payments
made on account and allowed by the court) \$ _____

To the guardian ad litem:
for services as guardian ad litem \$ _____

and it is further

ORDERED, ADJUDGED AND DECREED, that the balance remaining on hand in the amount of \$ _____ be paid as follows:

To _____	\$ _____
To _____	\$ _____
To _____	\$ _____

ORDERED, ADJUDGED AND DECREED, that upon complying with the directions of this decree and the filing of the receipts for the payments herein directed, the petitioner (s) hereby shall be discharged as to all matters and things contained in this accounting and decree.

Dated: _____

Judge of the Surrogate's Court

ACCOUNTING CITATION

File No. _____

SURROGATE'S COURT - _____ COUNTY
CITATION

THE PEOPLE OF THE STATE OF NEW YORK,
By the Grace of God Free and Independent

TO _____

A petition and an account having been duly filed by _____, whose address is

YOU ARE HEREBY CITED TO SHOW CAUSE before the Surrogate's Court, _____ County,

at _____, New York, on _____ 20 ____, at ____ o'clock in the ____

noon of that day, why the account of _____, a summary of which has been served herewith,

as _____, of the estate of _____ should not be judicially settled.

[State any further relief requested]

Dated, Attested and Sealed,

HON. _____
Surrogate

_____, 20 ____
(Seal)

Chief Clerk

Name of Attorney: _____

Tel. No.: _____

Address of Attorney: _____

[Note: This citation is served upon you as required by law. You are not required to appear; however, if you fail to appear it will be assumed you do not object to the relief requested. You have a right to have an attorney appear for you, and you or your attorney may request a copy of the full account from the petitioner or petitioner's attorney.]

Exhibit B

Exhibit B (Schedule of Accounts) is not included in this packet because of its length.

It can be found at <http://www.tcnylaw.com> under
“2014 Guardian ad Litem Training Program”

STATE OF NEW YORK
SURROGATE'S COURT : COUNTY OF NEW YORK

----- x
: Accounting of :
: JANE DOE and A TRUST COMPANY, as EXECUTORS' :
: Executors of the Last Will and FINAL ACCOUNT :
: Testament of :
: JOHN DOE, FILE NO. 0001/83 :
: deceased. :
----- x

TO THE SURROGATE'S COURT OF THE COUNTY OF NEW YORK:

The undersigned, JANE DOE and A TRUST COMPANY, do hereby render an account of their proceedings as Executors of the Last Will and Testament of JOHN DOE, deceased, covering the period from the 1st day of January, 1983 through the 28th day of February, 1986 the date of this account.

This is a final account.

The decedent died on the 1st day of January, 1983.

Letters Testamentary and Letters of Trusteeship were issued on the 31st day of January, 1983.

PRINCIPAL

SCHEDULE A, hereto annexed, contains a statement of principal received.

SCHEDULE A-1, hereto annexed, contains a statement of increases on sales, liquidation or distribution.

SCHEDULE B, hereto annexed, contains a statement of decreases due to sales, liquidation, collection, distribution or uncollectibility.

SCHEDULE C, hereto annexed, contains a statement of funeral and administration expenses chargeable to principal.

SCHEDULE C-1, hereto annexed, contains a statement of unpaid administration expenses.

SCHEDULE D, hereto annexed, contains a statement of all creditors' claims.

SCHEDULE E, hereto annexed, contains a statement of distributions of principal.

SCHEDULE F, hereto annexed, contains a statement of new investments, exchanges and stock distributions.

SCHEDULE G, hereto annexed, contains a statement of principal remaining on hand.

INCOME

SCHEDULE A-2, hereto annexed, contains a statement of all income collected.

SCHEDULE C-2, hereto annexed, contains a statement of administration expenses chargeable to income.

SCHEDULE E-1, hereto annexed, contains a statement of distributions of income.

SCHEDULE F-1, hereto annexed, contains a statement of new investments, exchanges and stock distributions made from income.

SCHEDULE G-1, hereto annexed, contains a statement of income remaining on hand.

AS TO GENERAL ESTATE MATTERS

SCHEDULE H, hereto annexed, contains a statement of interested parties.

SCHEDULE I, hereto annexed, contains a statement of Estate taxes paid and allocation thereof.

SCHEDULE J, hereto annexed, contains a computation of commissions.

SCHEDULE K, hereto annexed, contains a statement of other pertinent facts and of cash reconciliation.

SUMMARY

The following is a summary statement of this account.

PRINCIPAL ACCOUNT

CHARGES

Amount shown by Schedule A (principal received)	\$ 1,003,250.00
Amount shown by Schedule A-1 (realized increases on principal)	<u>90,500.00</u>
Total principal charges	\$ 1,093,750.00

CREDITS

Amount shown by Schedule B (realized decreases on principal)	\$ 20,000.00
Amount shown by Schedule C (funeral and administration expenses chargeable to principal)	166,209.59
Amount shown by Schedule D (creditors' claims actually paid)	6,398.52
Amount shown by Schedule E (distributions of principal)	<u>151,000.00</u>
Total principal credits	<u>363,608.11</u>
Principal balance on hand as shown by Schedule G	<u>\$ 730,141.89</u>

INCOME ACCOUNT

CHARGES

Amount shown by Schedule A-2 (income collected)	<u>\$ 216,624.00</u>
Total income charges	\$ 216,624.00

CREDITS

Amount shown by Schedule C-2 (administration expenses)	\$ 22,126.84
Amount shown by Schedule E-1 (distributions of income)	<u>-0-</u>
Total income credits	\$ <u>22,126.84</u>
Balance of undistributed income remaining on hand as shown in Schedule G-1	\$ <u>194,497.16</u>

COMBINED ACCOUNTS

Principal remaining on hand	\$ 730,141.89
Income remaining on hand	<u>194,497.16</u>
Total	\$ <u>924,639.05</u>

The foregoing principal balance of \$730,141.89 consists of \$91,985.03 in cash and \$638,156.86, in other property on hand as of the 28th day of February, 1986. It is subject to deduction of estimated principal commissions shown in Schedule J and to the proper charge to principal of the expenses of this accounting.

The foregoing income balance of \$194,497.16 consists entirely of cash on hand as of the 28th day of February, 1986. It is subject to deduction of estimated income commissions shown in Schedule J and to the proper charge to income of the expenses of this accounting.

The attached Schedules are part of this account.

Dated: February 28, 1986

Jane Doe

A TRUST COMPANY

By _____
Vice President

as Executors of the Last
Will and Testament of
JOHN DOE, deceased.

SCHEDULE A

STATEMENT OF PRINCIPAL RECEIVED

	<u>INVENTORY VALUE</u>
<u>1983</u> Jan. 1	
Unimproved lot, of approx- imately .5 acres located at 653 Fifth Avenue, New York, New York, sold on February 10, 1985 for	\$ 150,000.00
3,000 shares American Oil Company, capital stock, \$3. par value at 48.50	145,500.00
dividend of \$1.25 per share payable January 15, 1983 to holders of record on December 15, 1982	3,750.00
1,000 shares Computer Dynamics Corporation, common stock, \$.50 par value at 100.	100,000.00
1,000 shares General Discount Retailing, Inc., common stock, \$.35 par value at 130.	130,000.00
500 shares Mutual Insurance Company, common stock, \$.40 par value at 140.	70,000.00
City Savings Bank Park Avenue New York, New York - cash balance on deposit in decedent's savings account, No. 12345	90,000.00
New York Commercial Bank Wall Street New York, New York - cash balance on deposit in decedent's checking account, No. 4567	70,000.00
Mutual Insurance Company - proceeds received upon life insurance policy, No. LI8347	200,000.00

SCHEDULE A (Continued)

		<u>INVENTORY VALUE</u>
<u>1983</u>		
Jan.	1	
	Tangible personal property located at decedent's residence at 1250 Park Avenue, New York, New York, more fully described in the appraisal of Understated Appraisals, Inc., dated April 15, 1983, having an inventory value of	\$ 40,000.00
	A. Service Co. New York, New York - balance of compensation due on consulting contract	<u>4,000.00</u>
	Total	<u>\$ 1,003,250.00</u>

SCHEDULE A-1

STATEMENT OF INCREASES ON SALES, LIQUIDATION OR DISTRIBUTION

		<u>*NET PROCEEDS</u>	<u>INVENTORY VALUE</u>	<u>INCREASE</u>
<u>SALES</u>				
	None	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
	Totals-Sales	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
		<u>MARKET VALUE</u>	<u>INVENTORY VALUE</u>	<u>INCREASE</u>
<u>ASSETS REVALUED TO MARKET FOR DISTRIBUTION</u>				
1986				
Feb. 28	3,600 shares American Oil Company, capital stock, \$3. par value at 60.	\$ 216,000.00	\$ 145,500.00	\$ 70,500.00
	1,000 shares Computer Dynamics Corporation, common stock, \$.50 par value at 120.	<u>120,000.00</u>	<u>100,000.00</u>	<u>20,000.00</u>
	Totals-Distributions	<u>\$ 336,000.00</u>	<u>\$ 245,500.00</u>	<u>\$ 90,500.00</u>
		<u>*NET PROCEEDS OR MARKET VALUE</u>	<u>INVENTORY VALUE</u>	<u>INCREASE</u>
<u>SUMMARY</u>				
	Totals-Sales	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
	Totals-Distributions	<u>\$ 336,000.00</u>	<u>\$ 245,500.00</u>	<u>\$ 90,500.00</u>
	Totals-Combined	<u>\$ 336,000.00</u>	<u>\$ 245,500.00</u>	<u>\$ 90,500.00</u>

*Net proceeds as used in this Schedule refers to the selling price less brokers' commissions and/or taxes where applicable.

SCHEDULE B

STATEMENT OF DECREASES DUE TO SALES, LIQUIDATION,
COLLECTION, DISTRIBUTION OR UNCOLLECTIBILITY

			<u>*NET PROCEEDS</u>	<u>INVENTORY VALUE</u>	<u>DECREASE</u>
<u>SALES</u>					
<u>1983</u>					
July	1	\$265,000. United States of America Treasury Bills due July 1, 1983 redeemed at cost	\$ 259,803.92	\$ 259,803.92	-0-
Oct.	1	\$265,000. United States of America Treasury Bills due October 1, 1983 redeemed at cost	259,803.92	259,803.92	-0-
<u>1984</u>					
Jan.	1	\$185,000. United States of America Treasury Bills due January 1, 1984 redeemed at cost	181,372.54	181,372.54	-0-
Apr.	1	\$185,000. United States of America Treasury Bills due April 1, 1984 redeemed at cost	180,929.09	180,929.09	-0-
July	1	\$190,000. United States of America Treasury Bills due July 1, 1984 redeemed at cost	185,819.07	185,819.07	-0-
Oct.	1	\$195,000. United States of America Treasury Bills due October 1, 1984 redeemed at cost	190,709.04	190,709.04	-0-
<u>1985</u>					
Jan.	1	\$195,000. United States of America Treasury Bills due January 1, 1985 redeemed at cost	190,709.04	190,709.04	-0-

SCHEDULE B (Continued)

			<u>*NET PROCEEDS</u>	<u>INVENTORY VALUE</u>	<u>DECREASE</u>
<u>1985</u>	<u>SALES</u>				
Apr.	1	\$200,000. United States of America Treasury Bills due April 1, 1985 redeemed at cost	\$ 196,078.23	\$ 196,078.23	-0-
May	10	\$155,000. United States of America Treasury Bills due May 10, 1985 redeemed at cost	151,960.78	151,960.78	-0-
Aug.	10	\$370,000. United States of America Treasury Bills due August 10, 1985 redeemed at cost	362,745.09	362,745.09	-0-
Nov.	10	\$385,000. United States of America Treasury Bills due November 10, 1985 redeemed at cost	377,450.98	377,450.98	-0-
<u>1986</u>					
Feb.	10	\$405,000. United States of America Treasury Bills due February 10, 1986 redeemed at cost	397,058.82	397,058.82	-0-
		Totals-Sales	<u>\$ 2,934,440.72</u>	<u>\$ 2,934,440.72</u>	<u>-0-</u>

			<u>MARKET VALUE</u>	<u>INVENTORY VALUE</u>	<u>DECREASE</u>
		<u>ASSETS REVALUED TO MARKET FOR DISTRIBUTION</u>			
<u>1986</u>					
Feb.	28	1,000 shares General Discount Retailing, Inc., common stock, \$.35 par value at 100.	\$ 100,000.00	\$ 130,000.00	\$ 30,000.00

SCHEDULE B (Continued)

		<u>MARKET VALUE</u>	<u>INVENTORY VALUE</u>	<u>DECREASE</u>
<u>ASSETS REVALUED TO MARKET FOR DISTRIBUTION</u>				
<u>1986</u>				
Feb. 28	500 shares Mutual Insurance Company, common stock, \$.40 par value at 120.	\$ 60,000.00	\$ 70,000.00	\$ 10,000.00
	Totals - Distributions	\$ 160,000.00	\$ 200,000.00	\$ 40,000.00
<u>SUMMARY</u>		<u>*NET PROCEEDS OR MARKET VALUE</u>	<u>INVENTORY VALUE</u>	<u>DECREASE</u>
	Totals-Sales	\$ 2,934,440.72	\$ 2,934,440.72	-0-
	Totals-Distributions	160,000.00	200,000.00	\$ 40,000.00
	Totals-Combined	\$ 3,094,440.72	\$ 3,134,440.72	\$ 40,000.00

SCHEDULE C

STATEMENT OF FUNERAL AND ADMINISTRATION
EXPENSES CHARGEABLE TO PRINCIPAL

<u>FUNERAL EXPENSES</u>		
<u>1985</u>		
Mar.	1	Local Funeral Home, Inc. - funeral services for the decedent
		\$ 4,500.00
		<u>\$ 4,500.00</u>
<u>ADMINISTRATION EXPENSES</u>		
<u>1983</u>		
Apr.	15	A Realty Company - fee for appraisal of decedent's real property
		500.00
		Understated Appraisals, Inc. - fee for appraisal of decedent's tangible personal property
		750.00
May	1	A Trust Company - reimbursement for travel expenses incurred in connection with the administration of decedent's estate
		46.94
		Jane Doe - reimbursement for expenses incurred in connection with the administration of decedent's estate
		87.14
June	15	Internal Revenue Service - payment in full of Federal fiduciary income tax for the year ended February 28, 1983 chargeable to principal
		477.02

SCHEDULE C (Continued)

1983

June	15	New York State Income Tax Bureau		
		- payment in full of combined New York State and City fiduciary income tax for the year ended February 28, 1983, chargeable to principal		\$ 155.67
July	1	New York State Tax Commission		
		- payment on account of New York estate taxes	\$ 24,500.00	
		Less: refund received on December 1, 1985		
			<u>473.05</u>	24,026.95
Aug.	1	Jane Doe		
		- reimbursement for travel expenses incurred in connection with the administration of decedent's estate		69.06
Oct.	1	Internal Revenue Service		
		- payment in full of Federal estate tax as shown on the return as filed		91,398.22
Dec.	15	A Trust Company		
		- payment on account for principal receiving commissions, as allowed pursuant to Order of the Surrogate's Court, dated December 10, 1983		5,000.00
		Smith & Jones		
		- payment on account for professional services rendered in connection with the administration of decedent's estate	\$ 8,500.00	
		- disbursements	<u>1,136.50</u>	9,636.50
<u>1984</u>				
Jan.	15	Jane Doe		
		- reimbursement for expenses incurred in connection with the administration of decedent's estate		87.14

SCHEDULE C (Continued)

<u>1984</u>				
Dec. 15	A Trust Company			
	- payment on account for principal receiving commissions, as allowed pursuant to Order of the Surrogate's Court, dated December 12, 1984		\$	5,000.00
	Smith & Jones			
	- payment on account for professional services rendered in connection with the administration of decedent's estate	\$ 10,000.00		
	- disbursements	<u>230.73</u>		10,230.73
<u>1985</u>				
Jan. 15	Jane Doe			
	- reimbursement for expenses incurred in connection with the administration of decedent's estate			156.86
<u>1986</u>				
Feb. 28	Jane Doe			
	- reimbursement for expenses incurred in connection with the administration of decedent's estate			127.74
	Smith & Jones			
	- payment of balance due for professional services rendered in the administration of the decedent's estate	\$ 12,000.00		
	- disbursements	<u>672.38</u>		12,672.38
	<u>ADMINISTRATION EXPENSES INCURRED IN CONNECTION WITH DECEDENT'S REAL PROPERTY</u>			
<u>1985</u>				
Feb. 10	Smith & Jones			
	- for professional services rendered in connection with the sale of decedent's real property	\$ 1,200.00		
	- disbursements	<u>87.35</u>		<u>1,287.35</u>
	Total			<u>\$ 166,209.59</u>

SCHEDULE C-1

STATEMENT OF UNPAID ADMINISTRATION EXPENSES

N O N E

SCHEDULE D

STATEMENT OF ALL CREDITORS'S CLAIMS

1. CLAIMS PRESENTED, ALLOWED
PAID AND CREDITED AND
APPEARING IN THE SUMMARY
STATEMENT

1983			
Feb.	15	American Credit Card Co. - statement dated January 10, 1983	\$ 1,151.66
		Bloomingdane's - statement dated January 4, 1983	730.00
		Con Edsel - statement dated January 6, 1983	150.86
		New York Telephonic Company - statement dated January 8, 1983	167.80
Apr.	15	Internal Revenue Service - balance due on decedent's 1982 Federal income tax	2,645.74
		New York State Income Tax Bureau - balance due on decedent's 1982 New York State income tax	<u>1,552.46</u>
		Total	<u>\$ 6,398.52</u>

2. CLAIMS PRESENTED AND
ALLOWED BUT NOT PAID

N O N E

3. CLAIMS PRESENTED BUT
REJECTED, THE DATE OF
AND THE REASON FOR
SUCH REJECTION

N O N E

SCHEDULE D (Continued)

4. CONTINGENT POSSIBLE CLAIMS

N O N E

5. PERSONAL CLAIMS REQUIRING
APPROVAL BY THE COURT
PURSUANT TO S.C.P.A. 1805

N O N E

SCHEDULE E

STATEMENT OF DISTRIBUTIONS OF PRINCIPAL

DISTRIBUTION MADE PURSUANT
TO ARTICLE SECOND OF THE
DECEDENT'S WILL

Jane Doe

<u>1983</u> July	1	Tangible personal property located at 1250 Park Avenue, New York, New York, having an inventory value of	\$ 40,000.00
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DISTRIBUTIONS MADE PURSUANT
TO ARTICLE THIRD IA OF THE
DECEDENT'S WILL TO JANE DOE
AND A TRUST COMPANY, AS
TRUSTEES OF THE TRUST FOR
THE BENEFIT OF JANE DOE AND
REMAINDERMEN

<u>1984</u> Feb.	15	Cash	\$ 13,000.00	
<u>1985</u> Feb.	15		12,000.00	
<u>1986</u> Feb.	15		<u>30,500.00</u>	55,500.00

DISTRIBUTIONS MADE PURSUANT
TO ARTICLE THIRD IB OF THE
DECEDENT'S WILL TO JANE DOE
AND A TRUST COMPANY, AS
TRUSTEES OF THE TRUST FOR
THE BENEFIT OF JOHN DOE, JR.
AND REMAINDERMEN

<u>1984</u> Feb.	15	Cash	\$ 13,000.00	
<u>1985</u> Feb.	15		12,000.00	
<u>1986</u> Feb.	15		<u>30,500.00</u>	<u>55,500.00</u>

Total

\$ 151,000.00

SCHEDULE F

STATEMENT OF NEW INVESTMENTS, EXCHANGES
AND STOCK DISTRIBUTIONS

NEW INVESTMENTS

<u>1983</u>			
Apr.	1	\$265,000. United States of America Treasury Bills due July 1, 1983 at 98.039	\$ 259,803.92
July	1	\$265,000. United States of America Treasury Bills due October 1, 1983 at 98.039	259,803.92
Oct.	1	\$185,000. United States of America Treasury Bills due January 1, 1984 at 98.039	181,372.54
<u>1984</u>			
Jan.	1	\$185,000. United States of America Treasury Bills due April 1, 1984 at 97.799	180,929.09
Apr.	1	\$190,000. United States of America Treasury Bills due July 1, 1984 at 97.799	185,819.07
July	1	\$195,000. United States of America Treasury Bills due October 1, 1984 at 97.799	190,709.04
Oct.	1	\$195,000. United States of America Treasury Bills due January 1, 1985 at 97.799	190,709.04
<u>1985</u>			
Jan.	1	\$200,000. United States of America Treasury Bills due April 1, 1985 at 98.039	196,078.43
Feb.	10	\$155,000. United States of America Treasury Bills due May 10, 1985 at 98.039	151,960.78
May	10	\$370,000. United States of America Treasury Bills due August 10, 1985 at 98.039	362,745.09
Aug.	10	\$385,000. United States of America Treasury Bills due November 10, 1985 at 98.309	377,450.98

SCHEDULE F (Continued)

<u>1985</u>			
Nov. 10	\$405,000.	United States of America Treasury Bills due February 10, 1986 at 98.309	\$ 397,058.82
<u>1986</u>			
Feb. 10	\$145,000.	United States of America Treasury Bills due May 10, 1986 at 98.039	<u>142,156.86</u>
	Total		<u>\$ 3,076,597.58</u>

INVENTORY VALUE

EXCHANGES AND STOCK DISTRIBUTIONS

American Oil Company,
capital stock, \$3. par value

<u>1983</u>			
Jan. 1	3,000 shares	received as shown in Schedule A	\$ 145,500.00
<u>1985</u>			
Jan. 15	600 shares	received as a 20% stock dividend payable to holders of record on December 15, 1984	
	<u>3,600 shares</u>	balance	<u>\$ 145,500.00</u>
<u>1986</u>			
Feb. 28		increase upon revaluation to market as shown in Schedule A-1	70,500.00
	<u>3,600 shares</u>	balance	<u>\$ 216,000.00</u>
	<u>3,600 shares</u>	on hand as shown in Schedule G	<u>216,000.00</u>

Computer Dynamics Corporation, common stock, \$.50 par value

<u>1983</u>			
Jan. 1	1,000 shares	received as shown in Schedule A	\$ 100,000.00
<u>1986</u>			
Feb. 28		increase upon revaluation to market as shown in Schedule A-1	20,000.00
	<u>1,000 shares</u>	balance	<u>\$ 120,000.00</u>
	<u>1,000 shares</u>	on hand as shown in Schedule G	<u>120,000.00</u>

SCHEDULE F (Continued)

INVENTORY
VALUE

General Discount Retailing,
Inc., common stock, \$.35
par value

<u>1983</u>		<u>Jan. 1</u>	1,000 shares received as shown in Schedule A	\$ 130,000.00
<u>1986</u>		<u>Feb. 28</u>	decrease upon revaluation to market as shown in Schedule B	<u>30,000.00</u>
			<u>1,000 shares</u> balance	\$ <u>100,000.00</u>
			<u>1,000 shares</u> on hand as shown in Schedule G	<u>100,000.00</u>

Mutual Insurance Company,
common stock, \$.40 par
value

<u>1983</u>		<u>Jan. 1</u>	500 shares received as shown in Schedule A	\$ 70,000.00
<u>1986</u>		<u>Feb. 28</u>	decrease upon revaluation to market as shown in Schedule B	<u>10,000.00</u>
			<u>500 shares</u> balance	\$ <u>60,000.00</u>
			<u>500 shares</u> on hand as shown in Schedule G	<u>60,000.00</u>

SCHEDULE G

STATEMENT OF PRINCIPAL REMAINING ON HAND

	<u>MARKET VALUE</u>
<u>1986</u>	
Feb. 28 3,600 shares American Oil Company, capital stock, \$3. par value at 60.	\$ 216,000.00
1,000 shares Computer Dynamics Corporation, common stock, \$.50 par value at 120.	120,000.00
1,000 shares General Discount Retailing, Inc., common stock, \$.35 par value at 100.	100,000.00
500 shares Mutual Insurance Company, common stock, \$.40 par value at 120.	60,000.00
\$145,000. United States of America Treasury Bills due May 10, 1986 at 98.0392	<u>142,156.86</u> \$ 638,156.86
A Trust Company - cash balance on deposit in money market savings account, No. 578	87,580.77
A Trust Company - cash balance on deposit in checking account, No. 577	<u>4,404.26</u>
Total	<u>\$ 730,141.89</u>

SCHEDULE A-2

STATEMENT OF ALL INCOME COLLECTED

American Oil Company,
capital stock, \$3. par
value

<u>1983</u>			
Apr. 15	Dividend on 3,000 shares	\$ 3,750.00	
July 15		3,750.00	
Oct. 15		3,750.00	
<u>1984</u>		3,750.00	
Jan. 15		3,750.00	
Apr. 15		3,750.00	
July 15		3,750.00	
Oct. 15		3,750.00	
<u>1985</u>		4,500.00	
Jan. 15	Dividend on 3,600 shares	4,500.00	
Apr. 15		4,500.00	
July 15		4,500.00	
Oct. 15		4,500.00	
<u>1986</u>		4,500.00	
Jan. 15		<u>4,500.00</u>	\$ 48,750.00

Computer Dynamics Corporation,
common stock, \$.50 par value

<u>1983</u>			
Feb. 1	Dividend on 1,000 shares	\$ 3,000.00	
May 1		3,000.00	
Aug. 1		3,000.00	
Nov. 1		3,000.00	
<u>1984</u>		3,000.00	
Feb. 1		3,000.00	
May 1		3,000.00	
Aug. 1		3,000.00	
Nov. 1		3,000.00	
<u>1985</u>		3,000.00	
Feb. 1		3,000.00	
May 1		3,000.00	
Aug. 1		3,000.00	
Nov. 1		3,000.00	
<u>1986</u>		3,000.00	
Feb. 1		<u>3,000.00</u>	39,000.00

SCHEDULE A-2 (Continued)

General Discount Retailing,
Inc., common stock, \$.35
par value

<u>1983</u>			
Feb.	1	Dividend on 1,000 shares	\$ 2,000.00
May	1		2,000.00
Aug.	1		2,000.00
Nov.	1		2,000.00
<u>1984</u>			
Feb.	1		2,000.00
May	1		2,000.00
Aug.	1		2,000.00
Nov.	1		2,000.00
<u>1985</u>			
Feb.	1		2,000.00
May	1		2,000.00
Aug.	1		2,000.00
Nov.	1		2,000.00
<u>1986</u>			
Feb.	1		<u>2,000.00</u> \$ 26,000.00

Mutual Insurance Company,
common stock, \$.40 par
value

<u>1983</u>			
Feb.	1	Dividend on 500 shares	\$ 1,500.00
May	1		1,500.00
Aug.	1		1,500.00
Nov.	1		1,500.00
<u>1984</u>			
Feb.	1		1,500.00
May	1		1,500.00
Aug.	1		1,500.00
Nov.	1		1,500.00
<u>1985</u>			
Feb.	1		1,500.00
May	1		1,500.00
Aug.	1		1,500.00
Nov.	1		1,500.00
<u>1986</u>			
Feb.	1		<u>1,500.00</u> 19,500.00

City Savings Bank, savings
account, No. 12345

<u>1983</u>			
Mar.	31	Interest on balance	1,350.00

SCHEDULE A-2 (Continued)

A Trust Company, savings
account, No. 758

<u>1983</u>			
Mar.	31	Interest on balance	\$ 1,865.50
June	30		683.33
Sept.	30		1,850.63
Dec.	31		1,871.49
<u>1984</u>			
Mar.	31		1,322.43
June	30		1,755.31
Sept.	30		2,002.69
Dec.	31		2,110.08
<u>1985</u>			
Mar.	31		1,496.72
June	30		3,280.00
Sept.	30		1,592.79
Dec.	31		<u>1,612.46</u>
			\$ 21,443.43

Increment on the sale or
redemption of United States
of America Treasury Bills
due at various maturities

<u>1983</u>			
July	1	\$265,000. redeemed due July 1, 1983	\$ 5,196.08
Oct.	1	\$265,000. redeemed due October 1, 1983	5,196.08
<u>1984</u>			
Jan.	1	\$185,000. redeemed due January 1, 1984	3,627.46
Apr.	1	\$185,000. redeemed due April 1, 1984	4,070.91
July	1	\$190,000. redeemed due July 1, 1984	4,180.93
Oct.	1	\$195,000. redeemed due October 1, 1984	4,290.96
<u>1985</u>			
Jan.	1	\$195,000. redeemed due January 1, 1985	4,290.96
Apr.	1	\$200,000. redeemed due April 1, 1985	3,921.57

SCHEDULE A-2 (Continued)

<u>1985</u>			
May	10	\$155,000. redeemed due May 10, 1985	\$ 3,039.22
Aug.	10	\$370,000. redeemed due August 10, 1985	7,254.91
Nov.	10	\$385,000. redeemed due November 10, 1985	7,549.02
<u>1986</u>			
Feb.	10	\$405,000. redeemed due February 10, 1986	<u>7,941.18</u> \$ 60,559.28

New York State Tax
Commission

<u>1985</u>			
Dec.	1	Interest on Estate tax refund of \$473.05 as shown in Schedule C	<u>21.29</u>
		Total	<u>\$ 216,624.00</u>

SCHEDULE C-2

STATEMENT OF ADMINISTRATION
EXPENSES CHARGEABLE TO INCOME

INCOME TAXES

<u>1983</u>			
Feb. 28	Internal Revenue Service		
	- payment in full of Federal fiduciary income tax for the year ended February 28, 1983, chargeable to income	\$	990.18
	New York State Income Tax Bureau		
	- payment in full of combined New York State and City fiduciary income tax for the year ended February 28, 1983, chargeable to income		269.83
<u>1984</u>			
June 15	Internal Revenue Service		
	- payment in full of Federal fiduciary income tax for the year ended February 29, 1984 as shown on the return as filed		3,767.57
	New York State Income Tax Bureau		
	- payment in full of combined New York State and City fiduciary income tax for the year ended February 29, 1984 as shown on the return as filed		155.07
<u>1985</u>			
June 15	Internal Revenue Service		
	- payment in full of Federal fiduciary income tax for the year ended February 28, 1985 as shown on the return as filed		3,666.12
	New York State Income Tax Bureau		
	- payment in full of combined New York State and City fiduciary income tax for the year ended February 28, 1985 as shown on the return as filed		16.49
		\$	<u>8,865.26</u>

SCHEDULE C-2 (Continued)

ADMINISTRATION EXPENSES
INCURRED IN CONNECTION
WITH DECEDENT'S REAL
PROPERTY

<u>1983</u>	
Apr.	1 City Collector, City of New York - first half, 1983 New York City real estate taxes \$ 3,000.00
May	1 United States Insurers - liability insurance for the period from January 1 to June 30, 1983, policy No. 1234567 186.94
Oct.	1 City Collector, City of New York - 1983 water bill 46.84
Oct.	1 City Collector, City of New York - second half, 1983 New York City real estate taxes 3,000.00
Nov.	1 United States Insurers - liability insurance for the period from July 1 to December 31, 1983, policy No. 1234567 186.94
<u>1984</u>	
Apr.	1 City Collector, City of New York - first half, 1984 New York City real estate taxes 3,200.00
May	1 United States Insurers - liability insurance for the period from January 1 to June 30, 1984, policy No. 1234567 190.70
June	15 City Collector, City of New York - 1984 water bill 59.46

SCHEDULE C-2 (Continued)

<u>1984</u>			
Oct.	1	City Collector, City of New York - second half, 1984 New York City real estate taxes	\$ 3,200.00
Nov.	1	United States Insurers - liability insurance for the period from July 1 to December 31, 1984, policy No. 1234567	<u>190.70</u> <u>\$ 13,261.58</u>
		Total	<u>\$ 22,126.84</u>

SCHEDULE E-1

STATEMENT OF DISTRIBUTIONS OF INCOME

N O N E

SCHEDULE F-1

STATEMENT OF NEW INVESTMENTS, EXCHANGES AND
STOCK DISTRIBUTIONS MADE FROM INCOME

N O N E

SCHEDULE G-1

STATEMENT OF INCOME REMAINING ON HAND

		<u>MARKET VALUE</u>
<u>1986</u>		
Feb. 28	A Trust Company	
	- cash balance on deposit in money market savings account, No. 578	<u>\$ 194,497.16</u>
	Total	<u>\$ 194,497.16</u>

SCHEDULE H

STATEMENT OF INTERESTED PARTIES

<u>NAME AND POST OFFICE ADDRESS</u>	<u>RELATIONSHIP</u>	<u>NATURE OF INTEREST</u>
A Trust Company (Petitioner) One Erehwon Place New York, New York 10015	None	Executor and Trustee
Jane Doe 1250 Park Avenue New York, New York 10022	Wife	Executor and Trustee; legatee of tangible personal property under Article SECOND (Approx- imate value \$40,000.00); life income beneficiary of trust created under Article THIRD IA of Will (Approximate value \$495,710.73).
John Doe, Jr. 31 Chamberg Street New York, New York 10007	Son	Life income beneficiary of trust created under Article THIRD IB of Will (Approximate value \$229,418.60).

SCHEDULE I

STATEMENT OF ESTATE TAXES PAID AND ALLOCATION THEREOF

FEDERAL ESTATE TAX

The Federal Estate tax return for the decedent's Estate was timely filed by the Executors showing a tax due of \$91,398.22, which was paid in full as shown in Schedule C. After audit, the return was accepted as filed and a closing letter received on May 1, 1985.

NEW YORK STATE ESTATE TAX

The New York State estate tax on the decedent's Estate in the amount of \$24,026.95 was fixed and assessed by Order of the Surrogate's Court of New York County dated August 1, 1985. A payment on account of such tax was made on July 1, 1983, within six months of the decedent's death, in the amount of \$24,500.00 as shown in Schedule C hereof. On December 1, 1985, a refund of said tax in the amount of \$473.05, with interest of \$21.29, was received by the Executors, as shown in Schedules C and A-2 respectively.

ALLOCATION OF TAXES

Article SEVENTH of the decedent's Will, directs that all estate, transfer, inheritance, and other death taxes, including any interest and penalties thereon, imposed upon the value of any property owned by him at the time of his death and passing under his Will be paid out of that part

SCHEDULE I (Continued)

of his residuary estate disposed of under Article THIRD I(b). All of the decedent's property owned by him at his death, with the exception of jointly owned real estate, passed under the terms of his Will. Accordingly, in the absence of a contrary direction in the decedent's Will, the estate taxes paid by the Executors and attributable to such jointly-owned property must be allocated in conformity with EPTL 2-1.8.

The following is a computation of the Federal and New York State estate taxes allocated against the testamentary and non-testamentary assets of the decedent's estate:

FEDERAL ESTATE TAX
(As determined on Audit)

(1) DETERMINATION OF
ESTATE FOR TAX

<u>ASSETS</u>	<u>TOTAL</u>	<u>TESTAMENTARY</u> <u>PROPERTY</u>	<u>NON-</u> <u>TESTAMENTARY</u> <u>PROPERTY</u>
Schedule A - real property	\$ 150,000.00	\$ 150,000.00	
Schedule B - stocks and bonds	449,250.00	449,250.00	
Schedule C - mortgages, notes and cash	160,000.00	160,000.00	
Schedule D - insurance	200,000.00	200,000.00	
Schedule E - jointly-owned property	160,000.00		\$ 160,000.00
Schedule F - other miscellaneous property	<u>44,000.00</u>	<u>44,000.00</u>	
Total Gross Estate	<u>\$ 1,163,250.00</u>	<u>\$ 1,003,250.00</u>	<u>\$ 160,000.00</u>

SCHEDULE I (Continued)

<u>DEDUCTIONS:</u>	<u>TOTAL</u>	<u>TESTAMENTARY PROPERTY</u>	<u>NON- TESTAMENTARY PROPERTY</u>
Schedule J - funeral and admin- istration expenses	\$ 5,953.14	\$ 5,953.14	
Schedule K - debts of decedent	6,398.52	6,398.52	
Schedule M - marital deduction	<u>575,449.17</u>	<u>575,49.17</u>	
Total Deductions	\$ <u>587,800.83</u>	\$ <u>587,800.83</u>	
Taxable Estate	\$ <u>575,449.17</u>	\$ <u>415,449.17</u>	\$ <u>160,000.00</u>

(2) FEDERAL ESTATE TAX

Tax paid with return		\$ 91,398.22
Additional tax assess- ed on audit	-0-	
Interest paid	-0-	
Additional tax and interest		<u>-0-</u>
Total Tax Paid		\$ <u>91,398.22</u>

(3) COMPUTATION OF
INTEREST FOR TAX:

Testamentary property shown above	\$ 415,449.17
Non-Testamentary pro- perty shown above	<u>160,000.00</u>
Taxable Estate	\$ <u>575,449.17</u>

SCHEDULE I (Continued)

(4) PROPORTION OF TAX
TO TAXABLE ESTATE:

(Tax of \$91,398.22 ÷
taxable estate of
\$575,449.17)

$\frac{\$ 91,398.22}{\$575,449.17} =$

.1588293

(5) APPORTIONMENT
OF TAX:

Testamentary Property:

\$415,449.17 x .1588293=

\$ 65,985.52

Non-Testamentary
Property:

\$160,000.00 x .1588293=

25,412.70

Total Federal
Estate Tax

\$ 91,398.22

NEW YORK ESTATE TAX

(1) DETERMINATION OF
ESTATE FOR TAX:

	<u>TOTAL</u>	<u>TESTAMENTARY PROPERTY</u>	<u>NON- TESTAMENTARY PROPERTY</u>
<u>ASSETS:</u>			
Schedule A - real property	\$ 150,000.00	\$ 150,000.00	
Schedule B - stocks and bonds	449,250.00	449,250.00	
Schedule C - mortgages, notes and cash	160,000.00	160,000.00	
Schedule D - insurance	200,000.00	200,000.00	

SCHEDULE I (Continued)

	<u>TOTAL</u>	<u>TESTAMENTARY PROPERTY</u>	<u>NON- TESTAMENTARY PROPERTY</u>
<u>ASSETS: (Continued)</u>			
Schedule E - jointly-owned property	\$ 160,000.00		\$ 160,000.00
Schedule F - other miscellaneous property	<u>44,000.00</u>	<u>\$ 44,000.00</u>	
Total Gross Estate	<u>\$ 1,163,250.00</u>	<u>\$ 1,003,250.00</u>	<u>\$ 160,000.00</u>

DEDUCTIONS:

Schedule J - funeral and admin- istration expenses	\$ 5,953.14	\$ 5,953.14	
Schedule K - debts of decedent	6,398.52	6,398.52	
Schedule M - marital deduction	<u>575,449.17</u>	<u>575,449.17</u>	
Total Deductions	<u>\$ 587,800.83</u>	<u>\$ 587,800.83</u>	<u>\$ -0-</u>
Net Estate For Tax	<u>\$ 575,449.17</u>	<u>\$ 415,449.17</u>	<u>\$ 160,000.00</u>

(2) NEW YORK ESTATE TAX

Gross Estate Tax	\$ 24,526.95
Less: general credit	<u>500.00</u>
Tax assessed and paid	\$ 24,026.95
Interest assessed and paid	<u>-0-</u>
Total Tax and Interest Assessed and Paid	<u>\$ 24,026.95</u>

SCHEDULE I (Continued)

(3) COMPUTATION OF INTEREST FOR TAX:

Testamentary property shown above	\$ 415,449.17
Non-Testamentary property shown above	<u>160,000.00</u>
Net Estate For Tax	<u>\$ 575,449.17</u>

(4) PROPORTION OF TAX TO NET ESTATE:

(Gross tax of \$24,026.95
÷ by net estate of
\$575,449.17)

$\frac{\$ 24,026.95}{\$ 575,449.17} =$

.0417534

(5) APPORTIONMENT OF TAX:

Testamentary Property:

$\$ 415,449.17 \times .0417534 =$

\$ 17,346.41

Non-Testamentary Property:

$\$ 160,000.00 \times .0417534 =$

6,680.54

Total New York
Estate Tax

\$ 24,026.95

SCHEDULE I (Continued)

RECAPITULATION

The estate taxes on the decedent's estate are apportioned as follows

	<u>FEDERAL ESTATE TAX</u>	<u>NEW YORK ESTATE TAX</u>	<u>TOTAL</u>
To Residuary Estate Article FOURTH (II)	\$ 65,985.52	\$ 17,346.41	\$ 83,331.93
to John Doe, Jr.	<u>25,412.70</u>	<u>6,680.54</u>	<u>32,093.24</u>
Totals	<u>\$ 91,398.22</u>	<u>\$ 24,026.95</u>	<u>\$ 115,425.17</u>

Accountant proposes collecting the taxes attributable to John Doe, Jr. by charging such amount against the income payable to John Doe, Jr. and crediting such amount to the Residuary Trust.

SCHEDULE J

COMPUTATION OF COMMISSIONS

FOR RECEIVING

Principal received as shown in Schedule A		\$ 1,003,250.00
Less: specific bequest shown in Schedule E		40,000.00
		<u>\$ 963,250.00</u>
Increases on principal as shown in Schedule A-1		90,500.00
		<u>90,500.00</u>
Principal for receiving		\$ 1,053,250.00
Income received as shown in Schedule A-2	\$ 216,624.00	
Income for receiving		<u>216,624.00</u>
Total principal and income for receiving		<u>\$ 1,270,374.00</u>

FOR PAYING

Funeral and administration expenses paid as shown in Schedule C		\$ 166,209.59
Creditors' claims paid as shown in Schedule D		6,398.52
Distribution of principal as shown in Schedule E	\$ 151,000.00	
Less: specific bequest	<u>40,000.00</u>	111,000.00
Principal on hand as shown in Schedule G		<u>730,141.89</u>
Principal for paying		\$ 1,013,750.00
Administration expenses paid from income as shown in Schedule C-2	\$ 22,126.84	

SCHEDULE J (Continued)

Income on hand as shown in Schedule G-1	<u>\$ 194,497.16</u>	
Income for paying		<u>\$ 216,624.00</u>
Total principal and income for paying		<u>\$ 1,230,374.00</u>

COMPUTATION

FOR RECEIVING

2.50% on the first \$	100,000.00	= \$	2,500.00
2.00% on the next	200,000.00	=	4,000.00
1.50% on the next	700,000.00	=	10,500.00
1.25% on the next	<u>270,374.00</u>	=	<u>3,379.68</u>

Receiving commission on	<u>\$ 1,270,374.00</u>	\$ 20,379.68
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FOR PAYING

2.50% on the first \$	100,000.00	= \$	2,500.00
2.00% on the next	200,000.00	=	4,000.00
1.50% on the next	700,000.00	=	10,500.00
1.25% on the next	<u>230,374.00</u>	=	<u>2,879.68</u>

Paying Commission on	<u>\$ 1,230,374.00</u>	<u>19,879.68</u>
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Total receiving and paying commission due A Trust Company on this accounting	<u>\$ 40,259.36</u>
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ALLOCATION OF RECEIVING
AND PAYING COMMISSION

TO PRINCIPAL

For Receiving

<u>\$1,053,750.00</u>	x	\$20,379.68	=	\$ 16,904.54
<u>\$1,270,374.00</u>				

SCHEDULE J (Continued)

For Paying

$\frac{\$1,013,750.00}{\$1,230,374.00} \times \$19,879.68 \quad \$ \underline{16,379.59}$

Commission allocable to principal \$ 33,284.13

Less: payments on account as shown in Schedule C 10,000.00

Total principal commissions \$ 23,284.13

TO INCOME

For Receiving

$\frac{\$ 216,624.00}{\$1,270,374.00} \times \$20,379.68 \quad \$ 3,475.14$

For Paying

$\frac{\$ 216,624.00}{\$1,230,374.00} \times \$19,879.68 \quad \underline{3,500.09}$

Commission allocable to income 6,975.23

Total principal and income commissions due A Trust Company on this accounting \$ 30,259.36

By an instrument, signed April 15, 1983, Jane Doe, for herself, her heirs, legal representatives and assigns waived, renounced and relinquished any and all rights to any and all commissions or other compensation which may have been payable to her, both as to principal and income, as an Executrix of the Last Will and Testament of the decedent.

SCHEDULE K

STATEMENT OF OTHER PERTINENT FACTS
AND OF CASH RECONCILIATION

JOINTLY OWNED PROPERTY

At his death, the decedent was a joint tenant with his son, John Doe, Jr., of savings account No. 983 of the City Savings Bank. The balance in said account on the date of decedent's death was \$160,000. The proceeds were paid to John Doe, Jr., as the surviving joint tenant.

INCOME TAXES

Accountants filed the required final Federal and New York City & State income tax returns for the decedent for the period from January 1, 1982 to December 31, 1982.

Accountants have filed fiduciary income tax returns for the decedent's estate for the fiscal years ended February 28, 1983, 1984 and 1985 and have paid the taxes shown to be due on such returns.

UNDERPRODUCTIVE PROPERTY
ADJUSTMENT PURSUANT TO
EPTL 11-2.1(k)

On February 10, 1985, the decedent's unimproved lot located at 653 Fifth Avenue, New York, New York, was sold. The proceeds of sale were collected as shown in Schedule A.

No income was collected on the interest in real property since the inception of the estate administration on January 1, 1983. Accordingly, in the absence of a contrary direction in decedent's Will, EPTL 11-2.1(k) requires the

SCHEDULE K (Continued)

allocation of the net proceeds of sale between the principal and income accounts.

The computation of such allocation from January 1, 1983, the date of the decedent's death, through February 10, 1985, the date of the sale of the property, follows:

(1) EXPENSES INCURRED FOR MAINTENANCE OF PROPERTY:

From income as shown in Schedule C-2	\$ 13,261.58
From principal as shown in Schedule C	<u>1,287.35</u>
Total expenses paid	<u>\$ 14,548.93</u>

(2) NET PROCEEDS OF SALE

Sales Price	\$ 150,000.00
Less: expenses of sale	<u>-0-</u>
Gross proceeds of sale	\$ 150,000.00
Less: income and principal expended as set forth above	<u>14,548.93</u>
Net proceeds of sale for computational purposes	<u>\$ 135,451.07</u>

(3) DELAYED INCOME

Amount which, if invested at simple interest at 5% per annum, would have produced net proceeds of sale of \$135,451.07. 5% per annum = .0001369863 per day

<u>1983</u>	.050000
<u>1984</u>	.050000
<u>1985</u> January 1 to February 10 41 days at .0001369863	<u>.005616</u>
Total interest	<u>.105616</u>

SCHEDULE K (Continued)

$$\begin{aligned} \$135,451.07 &= x \text{ plus } .105616x \\ \$135,451.07 &= 1.105616x \\ x &= \$135,451.07 / 1.105616 \\ x &= \$122,511.86 \end{aligned}$$

To Prove:

<u>1983</u>	\$122,511.86 x .05 =	\$	6,125.59
<u>1984</u>	\$122,511.86 x .05 =		6,125.59
<u>1985</u>	\$122,511.86 x .005616 =		<u>688.03</u>
Interest		\$	12,939.21
Assumed investment			<u>122,511.86</u>
Net proceeds		\$	<u>135,457.07</u>

(4) CALCULATION OF AMOUNT TO BE TRANSFERRED FROM PRINCIPAL ACCOUNT TO INCOME ACCOUNT

Statutory interest		\$	12,939.21
Expenses paid from income as shown in Schedule C-2			<u>13,261.58</u>
		\$	<u>26,200.79</u>
Less: Income collected from the parcel	\$	-0-	
Value of beneficial use to beneficiary		<u>-0-</u>	<u>-0-</u>
Total adjustment pursuant to EPTL 11-2.1(k)		\$	<u>26,200.79</u>

ADJUSTMENT PURSUANT TO EPTL 11-1.2(A) (Warms Adjustment)

In accordance with the post-mortem tax plan adopted by the Executors, administration expenses were used in part as deductions on the Federal and New York estate tax returns and in

SCHEDULE K (Continued)

part as deductions on the fiduciary income tax returns. Accordingly in the absence of a contrary direction in decedent's Will, an adjustment pursuant to EPTL 11-1.2(A) must be made to reimburse principal for the increase in estate taxes attributable to the use of administration expenses chargeable to principal as income tax deductions.

The following is a computation of the total amount of the adjustment to be made from the income to principal. The proportion in which the residuary legatees shall share in such adjustment is shown in the calculation of residuary interests.

(1) DETERMINATION OF AMOUNT
OF EXPENSES CHARGEABLE
TO PRINCIPAL USED OR TO
BE USED AS INCOME TAX
DEDUCTIONS

Amounts as shown in Schedules C and C-1		\$	166,209.59
Less: Federal estate tax	\$	91,398.22	
New York estate tax		24,026.95	
Funeral expenses		4,500.00	
Income taxes		632.68	
Expenses deducted on Federal estate tax return		1,453.14	
Income in respect of a decedent for year ending February 29, 1984		<u>4,000.00</u>	<u>126,010.99</u>
			\$ 40,198.60
Add: Commission on principal as shown in Schedule J			<u>23,284.13</u>
Total			<u>\$ 63,482.73</u>

SCHEDULE K (Continued)

(2) INCREASE IN FEDERAL ESTATE TAX

Taxable estate as finally determined	\$	575,449.17	
Less: administration expenses not claimed as estate tax deductions		<u>63,482.73</u>	
	\$	511,966.44	
Add: reduction in marital deduction by reason of increase in adjusted gross estate		<u>31,741.36</u>	
Taxable estate if above administration expenses had been claimed as estate tax deductions	\$	<u>543,707.80</u>	
Federal estate tax thereon	\$	80,923.58	
Federal estate tax paid		<u>91,398.22</u>	
Increase			\$ <u>10,474.64</u>

(3) INCREASE IN NEW YORK ESTATE TAX

Taxable Estate as finally fixed	\$	575,449.17	
Less: administration expenses not claimed as estate tax deductions		<u>63,482.73</u>	
	\$	511,966.44	
Add: reduction in marital deduction allowable		<u>31,741.36</u>	
Taxable estate if above administration had been claimed as estate tax deductions	\$	<u>543,707.80</u>	
New York estate tax thereon	\$	22,122.47	
New York estate tax paid		<u>24,026.95</u>	\$ <u>1,904.48</u>

SCHEDULE K (Continued)

RECAPITULATION

The total adjustment
to be made from income
to principal pursuant
to EPTL 11-1.2(A):

Increase in Federal
estate tax \$ 10,474.64

Increase in New York
estate tax 1,904.48

\$ 12,379.12

Total

COMPUTATION OF RESIDUARY
FRACTIONS PURSUANT TO
ARTICLE THIRD

Numerator of the Fraction

Adjusted gross estate as
finally determined for
Federal estate tax purposes \$ 1,150,898.34

One-half (1/2) thereof \$ 575,449.17

Less: property passing to
Jane Doe under the
provisions of Will
or outside Will

tangible personal
property specific-
ally bequeathed as
shown by Schedule
E of this account

40,000.00

\$ 535,449.17

Numerator of the fraction

Denominator of the Fraction

Gross estate as finally
determined for Federal
estate tax purposes

\$ 1,163,250.00

SCHEDULE K (Continued)

Less: funeral and adminis- tration expenses shown by Schedule C of this account	\$ 50,784.42	
creditors' claims paid shown by Schedule D of this account	6,398.52	
principal commissions shown by Schedule J of this account	23,284.13	
property passing to Jane Doe as shown above	40,000.00	
jointly-owned property	<u>160,000.00</u>	<u>\$ 280,467.07</u>
Denominator of the fraction		<u>\$ 882,782.93</u>

Marital Trust
(Article THIRD IA)

$$\frac{\$535,449.17}{\$882,782.93} = 60.655\%$$

Non-Marital Trust
(Article THIRD IB)

$$\frac{\$347,333.76}{\$882,782.93} = \frac{39.345\%}{100.000\%}$$

PROPOSED ALLOCATION
OF INCOME

The Executors have been advised by counsel that, in accordance with EPTL 11-2.1(d)(2), and in the absence of a contrary direction in decedent's Will, net income earned during the administration of the estate must be allocated between the residuary legatees. There follows a computation of the changes in the proportionate interests of the residuary legatees during the administration of the estate caused by distributions on account of such interests and payments of estate taxes::

SCHEDULE K (Continued)

	<u>TESTAMENTARY ESTATE</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
Testamentary estate January 1, 1983	\$ 1,003,250.00		
Less: specific bequests	<u>40,000.00</u>		
	\$ 963,250.00		
Less: general bequests	<u>-0-</u>		
Gross Reisdue	\$ 963,250.00	\$ 584,259.29	\$ 378,990.71
Percentage	100.00%	60.655%	39.345%
 <u>Changes during the period from January 1, 1983 to July 1, 1983</u>			
Administration expenses and debts paid	12,915.28	7,833.76	5,081.52
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 950,334.72	\$ 576,425.53	\$ 373,909.19
Realized increases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 950,334.72	\$ 576,425.53	\$ 373,909.19
Realized decreases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 950,334.72	\$ 576,425.53	\$ 373,909.19
July 1, 1983 payment on account of New York estate tax	<u>24,500.00</u>	<u>-0-</u>	<u>24,500.00</u>
	\$ 925,834.72	\$ 576,425.53	\$ 349,409.19

SCHEDULE K (Continued)

	<u>TESTAMENTARY ESTATE</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
<u>Net unrealized increase on reevaluation of assets after pay- ment of taxes</u>	\$ 14,500.00	\$ 8,794.98	\$ 5,705.02
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 940,334.72	\$ 585,220.51	\$ 355,114.21
Percentage	100.00%	62.235%	37.765%
 <u>Changes during the period from July 2, 1983 to October 1, 1983</u>			
Administration expenses paid	69.06	41.89	27.17
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 940,265.66	\$ 585,178.62	\$ 355,087.04
Realized increases during the period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>62.235%</u>	<u>37.765%</u>
	\$ 940,265.66	\$ 585,178.62	\$ 355,087.04
Realized decreases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>62.235%</u>	<u>37.765%</u>
	\$ 940,265.66	\$ 585,178.62	\$ 355,087.04
October 1, 1983 payment of Federal estate tax	<u>91,398.22</u>	<u>-0-</u>	<u>91,398.22</u>
	\$ 848,867.44	\$ 585,178.62	\$ 263,688.82

SCHEDULE K (Continued)

	<u>TESTAMENTARY ESTATE</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
<u>Net unrealized decrease on revaluation of assets after pay- ment of taxes</u>	\$ 6,000.00	\$ 3,734.10	\$ 2,625.90
Percentage	<u>100.00%</u>	<u>62.235%</u>	<u>37.765%</u>
	\$ 842,867.44	\$ 581,444.52	\$ 261,422.92
Percentage	100.00%	68.984%	31.016%
<u>Changes during the period from October 2, 1983 to February 15, 1984</u>			
Administration expenses paid	14,723.54	8,930.56	5,792.98
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 828,143.90	\$ 572,513.96	\$ 255,629.94
Realized increases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>68.984%</u>	<u>31.016%</u>
	\$ 828,143.90	\$ 572,513.96	\$ 255,629.94
Realized decreases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>68.984%</u>	<u>31.016%</u>
	\$ 828,143.90	\$ 572,513.96	\$ 255,629.94
February 15, 1984 distributions to Marital and Residuary Trusts	<u>26,000.00</u>	<u>13,000.00</u>	<u>13,000.00</u>
Balance	\$ 802,143.90	\$ 559,513.96	\$ 242,629.94
Percentage	100.00%	69.752%	30.248%

SCHEDULE K (Continued)

	<u>TESTAMENTARY ESTATE</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
<u>Changes during the period from February 16, 1984 to February 15, 1985</u>			
Administration expenses paid	\$ 16,674.94	\$ 10,114.19	\$ 6,560.75
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 785,468.96	\$ 549,399.77	\$ 236,069.19
Realized increases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>69.752%</u>	<u>30.248%</u>
	\$ 785,468.96	\$ 549,399.77	\$ 236,069.19
Realized decreases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>69.752%</u>	<u>30.248%</u>
	\$ 785,468.96	\$ 549,399.77	\$ 236,069.19
February 15, 1985 distributions to Marital and Residuary Trusts	<u>24,000.00</u>	<u>12,000.00</u>	<u>12,000.00</u>
Balance	\$ 761,468.96	\$ 537,399.77	\$ 224,069.19
Percentage	100.00%	70.574%	29.426%
<u>Changes during the period from February 16, 1985 to December 1, 1985</u>			
Administration expenses paid	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 761,468.96	\$ 549,399.77	\$ 224,069.19

SCHEDULE K (Continued)

	<u>TESTAMENTARY ESTATE</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
Realized increases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>70.574%</u>	<u>29.426%</u>
	\$ 761,468.96	\$ 537,399.77	\$ 224,069.19
Realized decreases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>70.574%</u>	<u>29.426%</u>
	\$ 761,468.96	\$ 537,399.77	\$ 244,069.19
December 1, 1985 refund of New York Estate tax received	<u>\$ 473.05</u>	<u>-0-</u>	<u>\$ 473.05</u>
	\$ 761,942.01	\$ 537,399.77	\$ 224,542.24
Net unrealized increases on revaluation of assets after receipt of refund on tax	40,000.00	28,229.60	11,770.40
Percentage	<u>100.00%</u>	<u>70.574%</u>	<u>29.426%</u>
	\$ 801,942.01	\$ 565,629.37	\$ 236,312.64
Percentage	100.00%	70.532%	29.468%
Changes during the period from December 2, 1985 to February 15, 1986			
Administration expenses paid	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 801,942.01	\$ 565,629.37	\$ 236,312.64

SCHEDULE K (Continued)

	<u>TESTAMENTARY ESTATE</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
Realized increases during period	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>70.532%</u>	<u>29.468%</u>
	\$ 802,942.01	\$ 565,629.37	\$ 236,312.64
Realized decreases during period	-0-	-0-	-0-
Percentages	<u>100.00%</u>	<u>70.532%</u>	<u>29.468%</u>
	\$ 802,942.01	\$ 565,629.37	\$ 236,312.64
December 31, 1985 distributions to Marital and Residuary Trusts	<u>61,000.00</u>	<u>30,500.00</u>	<u>30,500.00</u>
Balance	\$ 740,942.01	\$ 535,129.37	\$ 205,812.64
Percentage	100.00%	72.222%	27.778%
Changes during the period from February 15, 1986 to February 28, 1986			
Administration expenses paid	12,800.12	7,763.91	5,036.21
Percentage	<u>100.00%</u>	<u>60.655%</u>	<u>39.345%</u>
	\$ 728,141.89	\$ 527,365.46	\$ 200,776.43
<u>Net unrealized increase upon revaluation of assets for distribution</u>	2,000.00	1,444.44	555.56
Percentage	<u>100.00%</u>	<u>72.222%</u>	<u>27.778%</u>
	\$ 730,141.89	\$ 528,809.90	\$ 201,331.99
Percentage	<u>100.00%</u>	<u>72.426%</u>	<u>27.574%</u>

SCHEDULE K (Continued)

The following is a statement in summary from setting forth the net distributable income payable to the Trusts or the beneficiaries thereof computed for each period set forth above and in the proportion determined for each such period.

<u>PERIOD</u>	<u>NET INCOME</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
January 1, 1983 to July 1, 1983	\$ 21,351.12 \$	12,950.52 \$	8,400.60
Percentage	100.00%	60.655%	39.345%
July 2, 1983 to October 1, 1983	14,296.71	8,897.56	5,399.15
Percentage	100.00%	62.235%	37.765%
October 2, 1983 to February 15, 1984	25,812.01	17,806.16	8,005.85
Percentage	100.00%	68.984%	31.016%
February 16, 1984 to February 15, 1985	55,010.77	38,371.11	16,639.66
Percentage	100.00%	69.752%	30.248%
February 16, 1985 to December 1, 1985	57,472.91	40,560.93	16,911.98
Percentage	100.00%	70.574%	29.426%
December 2, 1985 to February 15, 1986	20,553.64	14,496.89	6,056.75
Percentage	100.00%	70.532%	29.468%

SCHEDULE K (Continued)

<u>PERIOD</u>	<u>NET INCOME</u>	<u>ARTICLE THIRD IA AMOUNT</u>	<u>ARTICLE THIRD IB AMOUNT</u>
February 16, 1986 to February 28, 1986	-0-	-0-	-0-
Percentage	<u>100.00%</u>	<u>72.222%</u>	<u>27.778%</u>
Net Income	<u>\$ 194,497.16</u>	<u>\$ 133,083.17</u>	<u>\$ 61,413.99</u>
Percentage to be carried forward to proposed distribution	<u>100.00%</u>	<u>72.426%</u>	<u>27.574%</u>

PROPOSED DISTRIBUTION:

The Executors propose distributing the balances on hand of principal and income in the following manner in accordance with Article THIRD of the decedent's Will:

PRINCIPAL

Principal remaining on hand as shown in Schedule G		\$ 730,141.89
Adjustment from income pursuant to EPTL 11-1.2. (A)		12,379.12
Estate taxes attributable to non-testamentary pro- perty passing to John Doe, Jr., as shown in Schedule I		<u>32,093.24</u> \$ 774,614.25
Less: principal commissions shown in Schedule J	\$ 23,284.13	
adjustment to income pursuant to EPTL 11-2.1 (k)	<u>26,200.79</u>	<u>49,484.92</u>
Balance to be distributed		<u>\$ 725,129.33</u>

SCHEDULE K (Continued)

DISTRIBUTION THEREOF:

A Trust Company, as
Trustee of the Trust
created under Article
THIRD IA for the benefit
of Jane Doe

	<u>TOTAL</u>	<u>PERCENTAGE</u>	<u>SHARE</u>
Principal remaining on hand as shown in Schedule G	\$ 730,141.87	72.426%	\$ 528,809.90
Adjustment from income pursuant to EPTL 11-1.2(A)	12,379.12	-0-	-0-
Estate taxes attributable to non-testamentary property passing to John Doe, Jr.	<u>32,093.24</u> \$ 774,614.25	-0-	<u>-0-</u> \$ 528,809.90
Less: principal commissions as shown in Schedule J	<u>23,284.13</u> \$ 751,330.12	60.655%	<u>14,122.99</u> \$ 514,686.91
Less: adjustment to income pursuant to EPTL 11-2.1(k)	<u>26,200.79</u>	72.426%	<u>18,976.18</u>
Balance to be distributed	<u>\$ 725,129.33</u>		<u>\$ 495,710.73</u>

CONSISTING OF:

2,607 shares American
Oil Company, capital
stock, \$3. par value
at 60.

\$ 156,420.00

SCHEDULE K (Continued)

724 shares Computer Dynamics Corporation, common stock, \$.50 par value at 120.	\$ 86,880.00
724 shares General Discount Retailing, Inc., common stock, \$.35 par value at 100.	72,400.00
362 shares Mutual Insurance Company, common stock, \$.40 par value at 120.	43,440.00
\$105,000. United States of America Treasury Bills due February 10, 1986 at 97.56	102,941.17
	<u>33,629.56</u>
Cash	
	<u>\$ 495,710.73</u>
Total	

A Trust Company, as Trustee of the Trust created under Article THIRD IB for the benefit of John Doe, Jr.

	<u>TOTAL</u>	<u>PERCENTAGE</u>	<u>SHARE</u>
Principal remaining on hand as shown in Schedule G	\$ 730,141.89	27.574%	\$ 201,331.99
Adjustment from income pursuant to EPTL 11-1.2(A)	12,379.12	100.00%	12,379.12
Estate taxes attributable to non-testamentary property passing to John Doe, Jr.	<u>32,093.24</u>	100.00%	<u>32,093.24</u>
	<u>\$ 774,614.25</u>		<u>\$ 245,804.35</u>

SCHEDULE K (Continued)

	<u>TOTAL</u>	<u>PERCENTAGE</u>	<u>SHARE</u>
Less: principal commissions as shown in Schedule J	\$ 23,284.13	39.345%	\$ 9,161.14
adjustment to income pursuant to EPTL 11-2.1(k)	<u>26,200.79</u>	27.574%	<u>7,224.61</u>
Balance to be distributed	<u>\$ 725,129.33</u>		<u>\$ 229,418.60</u>

CONSISTING OF:

993 shares American Oil Company, capital stock, \$3. par value at 60.		\$ 59,580.00
276 shares Computer Dynamics Corporation, common stock, \$.50 par value at 120.		33,120.00
276 shares General Discount Retailing, Inc., common stock, \$.35 par value at 100.		27,600.00
138 shares Mutual Insurance Company, common stock, \$.40 par value at 120.		16,560.00
\$40,000. United States of America Treasury Bills due February 10, 1986 at 98.039		<u>53,342.91</u>
Total		<u>\$ 229,418.60</u>

SCHEDULE K (Continued)

INCOME

Income remaining on hand as shown in Schedule G-1			\$ 194,497.16
Adjustment from principal pursuant to EPTL 11-2.1(k)			<u>26,200.79</u>
			\$ 220,697.95
Less: income commissions shown in Schedule J	\$ 6,975.23		
adjustment to principal pursuant to EPTL 11-2.1(A)		12,379.12	
estate taxes due from John Doe, Jr.		<u>32,093.24</u>	<u>51,447.59</u>
Balance to be distributed			<u>\$ 169,250.36</u>

DISTRIBUTION THEREOF:

<u>Jane Doe</u>	<u>TOTAL</u>	<u>PERCENTAGE</u>	<u>SHARE</u>
Share of income remaining on hand	\$ 194,497.16		\$ 133,083.17
Adjustment from principal pursuant to EPTL 11-2.1(k)	<u>26,200.79</u>	72.426%	<u>18,976.18</u>
	\$ 220,697.95		\$ 152,059.35
Less: income commissions as shown in Schedule J	<u>6,975.23</u>	60.655%	<u>4,230.83</u>
	\$ 213,722.72		\$ 147,828.52
s: adjustment to principal pursuant to EPTL 11-1.2(A)	12,379.12	72.426%	8,965.70

SCHEDULE K (Continued)

	<u>TOTAL</u>	<u>PERCENTAGE</u>	<u>SHARE</u>
Less: estate taxes due from John Doe, Jr.	\$ <u>32,093.24</u>		<u>-0-</u>
Amount to be distributed	\$ <u>169,250.36</u>		\$ <u>138,862.82</u>

John Doe, Jr.

	<u>TOTAL</u>	<u>PERCENTAGE</u>	<u>SHARE</u>
Share of income remaining on hand as shown in Schedule K	\$ 194,497.16		\$ 61,413.99
Adjustment from principal pursuant to EPTL 11-2.1(k)	<u>26,200.79</u>	27.574%	<u>7,224.61</u>
Less: income commissions as shown in Schedule J	6,975.23	39.345	2,744.40
adjustment to principal pursuant to EPTL 11-1.2(A)	12,379.12	27.574	3,413.42
estate taxes due from John Doe, Jr.	<u>32,093.24</u>	100.00%	<u>32,093.24</u>
Amount to be distributed	\$ <u>169,250.36</u>		\$ <u>30,387.54</u>

SCHEDULE K (Continued)

CASH RECONCILIATION

PRINCIPAL ACCOUNT

CASH RECEIPTS

Cash received as shown in Schedule A		\$ 517,750.00
Net proceeds of sale as shown in Schedule B		<u>2,934,440.72</u>
Total cash receipts		\$ 3,452,190.72

CASH DISBURSEMENTS

Funeral and administration expenses paid as shown in Schedule C	\$ 166,209.59	
Creditors' claims paid as shown in Schedule D	6,398.52	
Cash distributions made as shown in Schedule E	111,000.00	
New investments made as shown in Schedule F	<u>3,076,597.58</u>	
Total cash disbursements		<u>3,360,205.69</u>
Principal cash balance on hand as shown in Schedule G		<u>\$ 91,985.03</u>

INCOME ACCOUNT

CASH RECEIPTS

Income collected as shown in Schedule A-2		\$ 216,624.00
Total cash receipts		\$ 216,624.00

SCHEDULE K (Continued)

CASH DISBURSEMENTS

Administration expenses
chargeable to income paid
as shown in Schedule C-2

\$ 22,126.84

Total cash disbursements

\$ 22,126.84

Income cash balance on hand
as shown in Schedule G-1

\$ 194,497.16

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

JANE DOE, an Executor of the Last Will and Testament
of JOHN DOE, deceased, being duly sworn, says:

That the foregoing account contains, according to
the best of my knowledge and belief, a true statement of all
receipts and disbursements on account of the Estate and of all
moneys and other property belonging to the Estate which have
come into the accounting parties' hands or have been received
by any other person by their order or authority for their use
and that I do not know of any error or omission in the account
to the prejudice of any creditor or of any person interested in
the Estate.

Jane Doe

Sworn to before me this
1st day of March, 1986.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

JOHN SMITH, a Vice-President of A TRUST COMPANY,
an Executor of the Last Will and Testament of JOHN DOE,
deceased, being duly sworn, says:

That the foregoing account contains, according to
the best of my knowledge and belief, a true statement of all
receipts and disbursements on account of the Estate and of
all moneys and other property belonging to the Estate which
have come into the accounting parties' hands or have been
received by any other person by their order or authority for
their use and that I do not know of any error or omission in
the account to the prejudice of any creditor or of any person
interested in the Estate.

That the reason why this verification is not made by
A TRUST COMPANY, as Executor of the Last Will and Testament of
JOHN DOE, deceased, is that said Executor is a corporation;
that as to all matters not stated on my knowledge, the sources
of my information and the grounds of my belief are the records
and papers of said Executor under my supervision and control
and the information derived from my conduct as such Vice-
President of the business of said Executor.

John Smith

Sworn to before me this
1st day of March, 1986.

Exhibit C

NEW YORK STATE BAR ASSOCIATION

PRACTICAL SKILLS COURSE

Preparation of the Account

and

Filing the Accounting*

Stephen C.F. Diamond
SCHNADER, HARRISON, SEGAL & LEWIS
330 Madison Avenue
New York, New York 10017
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Philadelphia, Pennsylvania 19103
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by Stephen C.F. Diamond

I. What a judicial accounting is

II. When a judicial accounting is necessary

- A. Compulsory
- B. Resignation of Executor or Trustee of testamentary trust (recent trend to allow informal accounting however)
- C. Discharge from fiduciary bond (but see SCPA 2203(4))
- D. When absolute discharge from liability is desired (but see SCPA 315(8) - informal accounting binding on non-parties by virtual representation)
- E. When informal accounting not practical or economical
- F. Where Court direction as to distribution of assets needed (Cy pres, e.g.)
- G. On Court's initiative

III. Alternatives to a Judicial Accounting

- A. Do nothing (but will can't effectively dispense with accounting, even though many try - against public policy)
- B. Informal Accounting filed in Court

IV. Proper Time for an Accounting

- A. Final Accountings
- B. Intermediate Accountings
- C. How to Deal with Contingent Liabilities

V. Papers in an Accounting (other than Schedules of Account)

- A. Petition
 - 1. General information (names and addresses of accounting parties; date of death; dates of probate and letters; dispositive provisions of Will; other relevant facts)
 - 2. 7 months elapsed (estates)

3. Provisions of instrument
4. Necessary parties (SCPA § 2210) (stress on estate accountings)
 - a. Specific legatees (if no receipt and release for legacy)
 - b. Outright residuary legatees; distributees (or their fiduciaries if deceased)
 - c. Trustees (and beneficiaries of trust, unless at least 1 Trustee (i) is not an accounting party, and (ii) has no conflict of interest)
 - d. Virtual representation
 - (i) General
 - (ii) Lateral (SCPA 315(5); Uniform Rule 207.18)
 - e. Creditors whose claims have not been paid
 - f. Attorney General (if charitable or unknown beneficiaries)
 - g. Infants (date of birth; with whom they reside; guardian)
 - h. Successor executor if accounting party no longer acting.
 - i. Addresses
 - j. Surety on bond, if any
5. Prayer for relief
 - a. Settle accounts
 - b. Attorneys fees
 - (i) Both paid and unpaid, if any fees shown as unpaid
 - (ii) Where attorney sole fiduciary
 - (iii) Matter of Weinstock
 - (iv) Multiple attorneys
 - c. Order for service of citation by mail
 - d. Commissions
 - e. Compensation of deceased fiduciary

6. Signature page and affirmation
7. Attach copy of Will as Exhibit
8. Statement of no other proceeding (exception - compulsory Accounting)

B. Citation

1. Citees
2. Relief requested; should be practically verbatim with prayer for relief
3. Return date (no later than four months after issuance; when to fill in; order for mailing)
4. Name, address and telephone number of Attorney
5. "you are not required..." etc.
6. Waiver; waiver and consent; appearance in proceeding
7. Service
 - a. In New York
 - b. Outside New York
 - c. Outside U.S.
 - d. Admission of due and timely service
 - e. Publication
 - f. Proof of Service
 - g. Infants
 - a. over 14 (infant and parent or guardian - SCPA 307(3))
 - b. under 14 (parent or guardian - ibid.)
 - c. individual designated by court - SCPA 311
 - h. Dispensation of Service - under \$500 - SCPA 2210(a) - rare
- c. Affidavit of military service

VI. Schedules of Account

A. Official Forms

1. Estate with no trust
2. Estate with trust
3. Trust

B Signatures required

1. Summary statement (no notarization)
2. Affidavit of Accounting Party (notarized)

C. Cover Schedules

1. Who is accounting
2. Period covered
3. Final or intermediate
4. List (index of all schedules)

D. Summary statement

E. Schedule A (principal received)

1. Inventory value (D.O.D., even if alternate value used)
2. Property subject to encumbrances
3. Income accrued to date of death
4. No real property (unless sold)
5. Generally received as of date of death ("Schedule of Additional Property Received")
6. Not property passing outside of Will
 - a. Joint WROS
 - b. Totten Trust
 - c. Pension and insurance payable directly to beneficiary
 - d. Trust property
7. Exempt property (EPTL § 5-3.1)

- F. Schedule A-2 (income received)
 - 1. Format
 - 2. Stock dividends
 - 3. Periodicity of Receipts
 - 4. Exclude income accrued to date of death

- G. Schedules A-1 and B (increases and decreases on principal); Schedules A-3 and B-1 (increases on income)
 - 1. Different ways of realizing gains and losses
 - 2. Gains and losses based on inventory value
 - 3. No gain or loss transactions
 - 4. Revalue assets on hand for computing commissions

- H. Schedules C and C-2 (expenses paid from principal and income)
 - 1. Types of expenses
 - 2. Charges of expenses against principal and income
 - a. General
 - b. Trusts
 - i. Income charges [EPTL 11-2.1(1)(1)]
 - ii. Principal charges [EPTL 11-2.1(1)(4)]
 - iii. Half income and half principal charges [EPTL 11-2.1(1)(6)]
 - c. Estates
 - i. Principal charges [EPTL § 11-2.1(d)(1)]
 - ii. Exceptions and possible exceptions
 - aa. Taxes on ordinary income
 - bb. Interest on income taxes
 - cc. Some long term regularly recurring expenses
 - dd. Portion of Executors commissions

iii. Interest on estate tax refund

- I. Schedule C-1 (unpaid administration expenses)
 - 1. Principal and income expenses (generally)
 - 2. Commissions
 - 3. Legal Fees
 - 4. Accountants' Fees
 - 5. Effect of showing unpaid expenses - alternatives

- J. Schedule D (Estates) (Statements of all creditors claims)
 - 1. Claims presented, allowed and paid
 - 2. Claims presented, allowed and not paid
 - 3. Claims presented but rejected
 - 4. Contingent and possible claims
 - 5. Personal claims requiring approval of court
 - 6. List all categories even if nothing to report

- K. Schedules E and E-1 (distribution of principal and income)
 - 1. Include estate taxes apportioned against individuals

- L. Schedule F (statement of new investments, exchanges and stock distributions)
 - 1. New "Prudent Investor" rule applies to investments made on or after 1/1/95 (EPTL 11-2.3)
 - 2. Higher standard for professional investor

- M. Schedules G and G-1 (principal and income on hand)
 - 1. General
 - 2. "As of payments"
 - 3. Refunds due
 - 4. Income assets other than cash

- N. Schedule H (statement of interested parties)

1. Necessary parties
 2. Interested parties
 3. Approximate value of interests
 4. Search of records of court
- O. Schedule I (Estates) (estate taxes paid and allocation thereof)
1. Final New York estate tax receipt or order of exemption from tax
 2. Tax clause in Will; EPTL § 2-1.8
 - a. Marital and charitable bequests
 - b. Apportionment within the residuary
 - (i) Residuary dispositions qualifying for marital and charitable deductions
 - (ii) Hybrid: initial tax payable out of charitable share, but not "snowball"
- P. Schedule J (computation of commissions)
1. SCPA §§ 2307 (Executors)
 2. Receiving and paying
 3. Specific bequests
 4. Property pledged as collateral (Uniform Court Rule § 207.40)
 5. Property passing outside Will
 6. Multiple fiduciaries (after 8/31/93, maximum of 2 commissions, unless Will provides otherwise)
 7. Deceased fiduciaries
 8. Payments on account
 9. Allocation between principal and income
- Q. Schedule K (other pertinent facts and cash reconciliation)
1. Cash reconciliation
 2. Non-probate matters affecting estate

3. Income and principal allocation
 - a. Income on pecuniary bequests not in trust - EPTL 11-1.5(d)
 - b. Income on pecuniary distributions in trust - EPTL 11-2.1(c)(1)
 - c. Other bequests - EPTL 11-2.1(d)(2)(B)
 4. Warms adjustment (reimbursement to principal where expenses taken as income tax deductions)
 5. Holloway adjustment (reimbursement to income for "principal-trap" distribution)
 6. Marital deduction computation
 7. Income attributable to underproductive property
 8. Schedule of Proposed Distributions
- R. Accounting Affidavit

VIII. Filing Papers in Court

- A. Filing fees (based on total of Schs A, A-1 and A-2)
- B. Bring eraser, pencil and pen, and extra copies of papers

IX. Judicial proceedings

- A. Return date ("...for decree")
- B. Guardian ad litem ("... subject to guardian's report")
- C. Attorney General
- D. Objections (within 8 days after account is marked for decree or within such further time as Court allows - Uniform Rule 207.41)
- E. Affidavit Amending or Supplementing Account
- F. Supplemental Account (if too much time has passed since closing date of original account - 1 year rule of thumb)
- G. Decree
 1. Papers filed and appearances

- 2. Status of Account
- 3. Decretal provisions
- H. Notice of Settlement
- I. Notice of Entry

Exhibit D

THE EVOLUTION OF TRUSTEES COMMISSIONS

Statutory Commissions for Trustees of Intervivos and Testamentary Trusts in New York State since 1923 under Section 8005 of the Civil Practice Law and Rules and Sections 2308/9 and 2312 of the Surrogate's Court Procedure Act

Category I

Testamentary trusts under the wills of testators who died after August 31, 1956 and intervivos trusts created after that date, (SCPA 2309, 2312).

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
July 1, 1991 to date (Corporate Trustees)	Reasonable compensation (including 12.35 per \$1,000 on first \$400,000)	Unchanged.*
July 1, 1991 to date (individuals and corporations not electing reasonable compensation)	\$10.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 on next \$600,000 \$3.00 per \$1,000 on balance chargeable 2/3 to Principal, 1/3 to Income (effective 8/4/93)	Unchanged.
August 6, 1984 to July 1, 1991 (Corporate Trustees)	Reasonable compensation (including \$10.00 per \$100,000 on first \$400,000)	Unchanged.*
August 6, 1984 to July 1, 1991 (individuals)	\$8.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 on next \$600,000 \$3.00 per \$1,000 on balance	Unchanged.
June 8, 1976 to August 6, 1984	Annual commission based on market value of corpus on "rest date" computed at the following rates: \$7.00 per \$1,000 on first \$300,000 \$3.75 per \$1,000 on next \$500,000 \$2.50 per \$1,000 on balance chargeable 1/2 to Principal, 1/2 to Income	1% of all principal distributed
September 1, 1969 to June 7, 1976	\$5.00 per \$1,000 on first \$300,000 \$2.50 per \$1,000 on next \$500,000 \$2.00 per \$1,000 on balance chargeable 1/2 to Principal, 1/2 to Income	1% of all principal distributed

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
August 31, 1956 to September 1, 1969	\$5.00 per \$1,000 on first \$50,000 \$2.50 per \$1,000 on next \$450,000 \$2.00 per \$1,000 on balance	1% of all principal distributed
	chargeable 1/2 to Principal, 1/2 to Income	

* Paying out commission may be being phased out for Trustees accepting reasonable compensation.

Category II

Testamentary trusts under the wills of testators who died on or before August 31, 1956 and intervivos trusts created on or before that date.

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
July 1, 1991 to date (Corporate Trustees)	Reasonable compensation (including \$12.35 per \$1,000 on first \$400,000)	Unchanged.
July 1, 1991 to date (individuals and corpo- rations not electing reasonable compensation)	\$10.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 next \$600,000 \$3.00 per \$1,000 on balance chargeable 2/3 to Principal, 1/3 to Income (effective 8/4/93)	Unchanged.
August 6, 1984 to July 1, 1991 (Corporate Trustees)	Reasonable compensation (including \$10.00 per \$100,000 on first \$400,000)	Unchanged.*
August 6, 1984 to July 1, 1991 (individuals)	\$8.50 per \$1,000 on first \$400,000 \$4.50 per \$1,000 on next \$600,000 \$3.00 per \$1,000 on balance	Unchanged.
June 5, 1978 to August 6, 1984	Annual commission based on market value of corpus on "rest date" com- puted at the following rates: \$7.00 per \$1,000 on first \$300,000 \$3.75 per \$1,000 on next \$500,000 \$2.50 per \$1,000 balance chargeable 1/2 to Principal, 1/2 to Income	3% on \$2,000** 1-1/2% on \$10,000 1-1/4% on balance Commission for paying Principal: 1% of all principal distributed

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
*	Payment commission may be being phased out for Trustees accepting reasonable compensation.	
**	No receiving commissions on additions of property received, or on any increments in property realized, on or after June 5, 1978.	
September 1, 1969 to June 4, 1978	Annual Principal commission based on market value of corpus on "rest date" computed at the following rates: \$1.75 per \$1,000 on first \$300,000 \$1.00 per \$1,000 on next \$700,000 \$.50 per \$1,000 on balance chargeable 1/2 to Principal, 1/2 to Income Annual commission based on Income collected: 6% on \$2,000 3% on \$10,000 2-1/2% on balance chargeable to Income	6% on \$2,000 3% on \$10,000 2-1/2% on balance
July 1, 1956 to September 1, 1969	Annual Principal commission based on market value of corpus on "rest date" computed at the following rates: \$1.75 per \$1,000 on first \$50,000 \$.75 per \$1,000 on next \$350,000 \$.50 per \$1,000 on balance chargeable to Principal Annual commission based on Income collected: 6% on \$2,000 3% on \$10,000 2-1/2% on balance chargeable to Income	Commission for receiving Principal and paying Principal at 1/2 rates for each: 6% on \$2,000 3% on \$10,000 2-1/2% on balance

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
April 1, 1948 to July 1, 1956	Annual Principal commission computed to last "rest date" prior to 4/1/48, from 9/1/43 1/2 of 110% of Income commission taken during this period. Annual Principal commission based on market value of corpus on "rest date" computed at the following rates: \$1.00 per \$1,000 on first \$50,000 \$.45 per \$1,000 on next \$350,000 \$.30 per \$1,000 on balance chargeable to Principal Annual commission based on Income collected: 6% on \$2,000 3% on \$10,000 2% on balance chargeable to Income	Commission for receiving Principal and paying at 1/2 rates for each: 6% on \$2,000 3% on \$10,000 2% on balance
September 1, 1943 to April 1, 1948	Annual Principal commission computed at 110% on Income commission taken during this period. chargeable to Principal Annual commission based on Income collected: 6% on \$2,000 3% on \$10,000 2% on balance chargeable to Income	Commissions for receiving and paying Principal: There were no receiving and paying commissions as such except on final accounts where the Annual Principal commissions were applied against a minimum commission allowable, computed on Principal distributed at the following rates: 5% on \$2,000 2-1/2% on \$20,000 2% on balance The value of real and personal property is subject to this commission. If distribution is made for a period less than 5 years after qualification of trustee, the minimum Principal commission payable is at 1/2 of such rates.

<u>Date</u>	<u>Annual Commission</u>	<u>Receiving and Paying Commission</u>
September 1, 1923 to September 1, 1943	Annual commission based on Income collected: 5% on \$2,000 2-1/2% on \$20,000 1-1/2% on \$28,000 2% on balance chargeable to Income	Commission for receiving Principal and paying Principal at 1/2 rates for each: 5% on \$2,000 2-1/2% on \$20,000 1-1/2% on \$28,000 1% on balance
Prior to September 1, 1923	Annual commission based on Income received and paid out: 5% on \$1,000 2-1/2% on \$10,000 1% on balance	Commission for receiving Principal and paying Principal at 1/2 rates for each: 5% on \$1,000 2-1/2% on \$10,000 1% on balance
	Note: Since September 1, 1943, commissions and effective dates for testamentary and intervivos trusts have been identical; prior to that date they differed only as to effective dates, namely, the periods September 1, 1923 to September 1, 1943 and Prior to September 1, 1923 (immediately above) relate to testamentary trusts; for intervivos trusts the periods are, respectively, September 1, 1926 to September 1, 1943 and Prior to September 1, 1926.	

Multiple Limitations

Applies to the period prior to June 8, 1976 for Category I Trusts and period prior to June 5, 1978 for Category II Trusts:

For Trusts under \$100,000, only one full commission is computed and shared by all Trustees.

For Trusts over \$100,000, each Trustee up to the number of 3 gets a full commission. Where there are more than 3 Trustees, they share 3 full commissions.

Applies to Category I Trusts from June 8, 1976 to July 1, 1991 and to Category II Trusts from June 5, 1978 to July 1, 1991

For Trusts under \$100,000, only one full commission is computed and shared by all Trustees.

For Trusts of \$100,000 to \$200,000, each Trustee up to the number of 2 gets a full commission. Where there are more than 2 Trustees, they share 2 full commissions.

For Trusts of \$200,000 or more, each Trustee up to the number of 3 gets a full commission. Where there are more than 3 Trustees, they share 3 full commissions.

Applies to Category I Trusts and Category II Trusts from July 1, 1991 to date.

For Trusts under \$100,000, only one full commission is computed and shared by all Trustees.

For Trusts of \$100,000 to \$400,000, each Trustee up to the number of 2 gets a full commission. Where there are more than 2 Trustees they share 2 full commissions.

For Trusts of \$400,000:

Created before September 1, 1993: each Trustee up to the number of 3 gets a full commission. Where there are more than 3 Trustees, they share 3 full commissions.

Wills of persons dying, and intervivos trusts created, after August 31, 1993: ``if there are more than two ... trustees, no more than two commissions shall be allowed unless the decedent has specifically provided otherwise ..., [to be] apportioned among the fiduciaries according to the services rendered by them respectively unless they shall have agreed in writing among themselves to a different apportionment which, however, shall not provide for more than one full commission for any one of them.'` SCPA 2313

Exhibit

E

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

.....X
Accounting by DAVID and MARY,
as Executors of the Estate of

SUSAN,

Deceased.
.....X

**REPORT OF
GUARDIAN-AD-LITEM**

File No. XXXX/01

VINCENT L. TEAHAN, an attorney at law in the State of New York, affirms and reports as follows:

1. By order of this Court dated October 31, 2002, I was appointed Guardian-ad-Litem for Margaret ("Margaret") in the captioned proceeding. Margaret is approximately 60 years old, and the representation is made in the petition by which this proceeding was commenced that Margaret is "an adult person who is mentally retarded".

2. I met with Margaret on November 13, 2002, in my office at 41 Front Street, Millbrook, New York. Margaret was accompanied by her sister (Petitioner, Mary), her brother-in-law (Petitioner, David) and their counsel, XXX XXXX, Esq. We had a meeting lasting 20-30 minutes, in which we discussed all relevant issues concerning the estate. I am satisfied that my Ward is in need of representation in this proceeding. She does not, however, appear to suffer from severe retardation and is able to converse socially, though nervously.

3. The financial affairs of the estate and of Margaret need to be reviewed.

a. Decedent left her entire estate in trust for Margaret (who is one of two stepdaughters of decedent). At the close of the Schedules of Account (October 1, 2002), cash

on hand was \$126,789.69. In addition tangibles on hand (an automobile and furniture and personal effects) are listed at an inventory value of \$2,500. After payment of expenses of the accounting and of the termination of the estate, there should be approximately \$100,000 in the trust for Margaret's benefit.

b. Article FOURTH of decedent's Will provides:

"My Trustees shall utilize ... the proceeds of such property for my daughter's upkeep, maintenance, support and well-being.... My said Trustees shall ... also have the power to invade the principal of such trust, if necessary, in addition to the interest or income thereon, for the purposes set forth herein."

c. On Margaret's death the balance of the funds that remain in the trust "shall be divided equally between my Trustees or the survivor". The Trustees are decedent's other stepdaughter, Mary, and Mary's husband, David.

d. It appears from the accounting papers that the estate has been illiquid for most of the time from decedent's death (July 6, 2001) through September 5, 2002 (the closing date of the sale of decedent's residence). It also appears from Schedule J of the Schedules of Account that the Executors (who are also the Trustees and the presumptive remaindermen of the trust) have advanced in excess of \$20,000 of funeral and administration expenses, and have reimbursed themselves out of the proceeds of sale.

e. It also appears from Schedule J of the Schedules of account that Margaret is receiving supplemental security income ("SSI") of \$734.00 per month, that Margaret resided with decedent while decedent was alive, and now resides with the Executors/Trustees.

4. All of this is necessary background for reviewing the charge of the Executors of \$1,980 as remuneration of the cost of travel (mileage) for trips between Jefferson,

New York to the Town of Clinton, New York (33 round trips of 200 miles each = 6,600 miles @ .30 per mile).

a. The question of whether Executors are to be paid from an estate for their expenses, or whether the expenses are to be absorbed by Executors out of their commissions, is a "gray" area of the law, which depends in part on the factual circumstances. For example, there is a line of cases holding that an Executor is responsible for the payment, out of commissions, of the costs of preparation of income tax returns for the decedent and the estate.

b. Absent extenuating circumstances, I would be constrained to object, on Margaret's behalf, to the payment of mileage cost to the Executors. They are each claiming a full Executor's commission of \$7,100 (total of \$14,200¹), which is more than 10% of the net probate estate. It is clear that they are each entitled to a full commission under SCPA 2307(5)(b), as the probate estate is between \$100,000 and \$300,000.²

c. I believe, however, there are extenuating circumstances here.

The Executors/Trustees/remaindermen have taken Margaret into their home, and have continued the care for her provided by decedent, which can only be partially quantified in dollars and cents terms. There does seem to be a good chance that the trust fund will be exhausted if Margaret survives for any period of time, and the burden of her care will have to be borne, at least in part,

¹ I note that the citation recites commissions of \$4,200, instead of \$14,200, but believe this is a harmless error.

² Ordinarily Executors are not entitled to commissions on real estate, since probate completes the chain of title, and real property vests by operation of law in the name of the beneficiary on probate, and does not pass through the hands of the Executors. In this estate, however, the Executors reduced the real property to their dominion and control, by selling it, and the proceeds are commissionable.

by petitioners. Accordingly, I have no objection to the payment of travel expenses to the Executors.

5. The petition also calls for approval of \$5,000 of legal fees, and I am required to comment on that request as well. In the ordinary course of an accounting, an affidavit of legal services might be required where legal fees are listed as unpaid, and where the Citation lists approval of payment of fees as part of the relief requested. Based on my review of estate transactions in connection with the accounting (including probate of decedent's Will, bookkeeping and accounting, sale of decedent's residence and the special problems of Margaret's incapacity), on my experience in more than two decades of administering estates, and on my discussion of the legal services rendered with Mr. XXXX, I believe the fee requested to be reasonable, and that no affidavit should be required of Mr. XXXX.

6. I have reviewed papers relating to the service of the citation in this proceeding, and believe jurisdiction is complete. I note that the Petition was filed in this Court on October 3, 2002. The filing date appears to have been before the expiration of the seven-month-from-letters period required for a voluntary accounting under SCPA Section 2208 1 (a), as Letters Testamentary were issued to Petitioners on March 11, 2002. But seven months have now so elapsed, and I ask this Court to treat any potential difficulties with the early filing of the Petition herein as being academic.

7. The account lists tangible personal property on hand of \$2,500, representing the decedent's automobile valued at \$2,000, and furniture and personal effects valued at \$500. Based on my meeting on November 13, I understand that the automobile has been transferred and is no longer part of the principal of the estate. I understand from my meeting that Margaret

wanted to keep the automobile, and to have the use of it, but, not having a driver's license, she transferred it to David. I regard the automobile, therefore, as having been distributed to Margaret, and then transferred by her to David. I have no objection to this.

8. On Margaret's behalf, I consent to the relief requested in this proceeding.

Dated: Millbrook, New York
November 19, 2002

Respectfully submitted,

Vincent L. Teahan

TO: Clerk, Dutchess County Surrogate's Court
Court House
10 Market Street
Poughkeepsie, New York 12601

XXX XXXX, Esq., Attorney for Petitioners

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Exhibit

F

SURROGATE'S COURT
COUNTY OF NEW YORK

-----X

In the Matter of the Settlement of
the First and Final Account of
Proceedings of _____ and
_____, as Executors,
and
_____, as Executors of the
Estate of
Deceased Executor, of the Estate of

File No.

REPORT OF
GUARDIAN AD LITEM

Deceased.

-----X

TO THE SURROGATE'S COURT OF THE COUNTY OF NEW YORK:

_____, having by an order of the Honorable
Renee R. Roth entered August 5, 1985 been appointed the guardian ad
litem of _____ and
_____, all of whom are infants, for the purpose of
protecting their interests in this proceeding, respectfully reports:

FIRST: I duly qualified as guardian ad litem of the above
named infants as required by SCPA 404.

SECOND: Interest of my wards: My wards are the
grandnieces and grandnephews of decedent. Each of them is a
contingent remainderman of the trust of 50% of the residuary estate
established under Article Fifth of decedent's will and a permissive
recipient of income and principal and a presumptive remainderman of
the trust of 50% of the residuary estate established under Article
Sixth of the will.

THIRD: Jurisdiction: The respective dates of birth of my
wards are as follows: _____, October 3, 1982;
_____, December 2, 1977; _____ September 22, 1980;
and _____, February 18, 1985. Inasmuch as each of my

wards is under the age of 14 years, the proper method of service is upon the parent with whom each of them resides [SCPA 307(3)]. The affidavit of service of _____ sworn to July 15, 1985 indicates that my ward, _____, was duly served by mail on June 26, 1985, a true copy of the citation to her mother _____, with whom she resides at _____ Hoboken, N.J. 07030 and that my other wards were duly served by mail, on either June 26, 1985 or June 27, 1985 a true copy of the citation to their mother, _____, with whom they reside at _____, Marlboro, N.J. 07746. The affidavits of service of _____ sworn to July 12, 1985, _____ sworn to July 12, 1985,

_____ sworn to July 15, 1985 and the adoption of schedules and waiver and consent of the executors of the estate of _____ sworn to June 6, 1985 appear to indicate that all of the other necessary parties were duly served with process and jurisdiction has been obtained over all of the necessary parties.

FOURTH: Nature of the proceeding: This is a first and final accounting proceeding for the executors encompassing the period from the date of decedent's death, January 20, 1982 to December 31, 1984. However, in essence, there are three different accounting periods because one of the original executors died and a successor replaced him. Decedent's will was admitted to probate on March 2, 1982 and on the following day letters testamentary and letters of trusteeship issued to _____ and _____. They served as co-fiduciaries until the death of _____ on October 9, 1982. In accordance with the provisions of Article Fifteenth of the will, on November 9, 1982 _____ was appointed as a co-executor and a co-trustee in place and stead of the deceased

co-fiduciary. This "triple" accounting period is most significant from the point of view of the computation of commissions.

THE ACCOUNT

FIFTH: Schedule A: This schedule reflects that the executors collected assets which had an inventory value as of the date of decedent's death of \$1,137,783.72. Each of the assets except those which do pass by operation of law [\$95,190.96 in life insurance proceeds did pass by operation of law to designated beneficiaries and \$79,375.24 representing proceeds passing by operation of law to surviving joint tenant of bank account pursuant to Banking Law § 675] and was reported in the United States estate tax return (form 706) properly appear in Schedule A at the same value as they were listed in the 706. It is noted that this schedule reports modest refunds received for 1982 federal and state income taxes which do not appear in the 706 but it does not appear that it should be necessary for the executors to take any further action with regard to this item. Accordingly, it does not appear that there is any basis to interpose any objections relative to Schedule A.

SIXTH: Schedule A-1: This schedule reports the sale of four different securities, the proceeds of which exceeded the inventory value by \$51,732.79. The most significant item appearing in this schedule was the sale on November 5, 1982 of 25,277 shares of common for \$252,770.00 which represented an increase of \$43,286.86 over inventory value. Considering that between 20 and 25% of the total value of the estate was in this one asset it appeared prudent to expeditiously liquidate it and the price received was reasonable in light of the large number of shares

involved and the thin trading of the issue. Accordingly, it does not appear that there is any basis to interpose any objection to this schedule.

SEVENTH: Schedule B: This schedule reports a decrease of \$3,647.62 due to sales, liquidation, collection, distribution or uncollectibility of assets. Actually all of the items which are listed in this three page schedule, with the exception of the sale of 840 shares of AT&T for \$45,544.88 on May 12, 1982, represents a collection of an asset at neither a gain nor loss in principal. Inasmuch as investments are not to be judged with the wisdom of hindsight and it appears to have been within the perimeters of a prudent exercise of discretion to have expeditiously liquidated this asset, it does not appear appropriate to interpose an objection merely because the proceeds were \$3,647.62 less than the inventory value.

EIGHTH: Schedule C: This schedule reports funeral and administration expenses of \$513,944.81 chargeable to principal. The reported funeral expenses of \$4,943.00 appear reasonable and is the same amount as is reported in the 706. Similarly numerous modest administration expenses reported in the schedule appear reasonable and are in accord with the figures reported in the 706. The schedule reports a payment of \$55,681.88 to

for legal fees and disbursements, including a payment of \$1,850.00 on December 31, 1984 representing "balance of disbursements and amount estimated through the termination of the estate." Considering the criteria set forth in Matter of Freeman, 34 N Y 2d 1, 9, the legal fee paid appears to be reasonable for the services rendered and does not appear to be the appropriate subject matter for

an objection. The schedule also reports the principal portion of federal and state income taxes for 1982 and 1983 as well as the federal and state estate taxes paid. Basically, and if one is not to quibble over small items, all of the tax returns appear to have been properly prepared and the correct amount of taxes paid. As noted on the schedule, there is a refund of \$2,572.50 due to the estate from Internal Revenue Service as a result of an initial overpayment of federal estate taxes. This decrease in the tax flows from the executors' having increased the deduction for executors' commissions from \$75,000.00 to \$82,028.71 or by \$7,028.71.

NINTH: Schedule C-1: This schedule reports unpaid administration expenses totaling \$93,539.43, comprised of \$85,677.61 in principal commissions and \$7,861.82 in income commissions. It is my opinion that these commissions should be reduced by at least the sum of \$3,648.90. My reasons for this conclusion shall be set forth at length in paragraph TWENTIETH of this report relating to Schedule J of the account. Moreover, as noted in the Summary of the account, there will be expenses of this account which will be proper. Clearly, my fee for services rendered as guardian ad litem will be one of those expenses.

TENTH: Schedule D: This schedule reports creditors' claims totaling \$3,003.67. These payments were for services rendered by a medical laboratory and for gift taxes for the years 1977 - 1981 and they appear to be just obligations of the estate.

ELEVENTH: Schedule E: This schedule reports that distributions of principal totaling \$422,446.88 have been made. Decedent's tangible personal property has been distributed to his sisters as provided in Article Second of the will. Decedent's

sister, _____, is bequeathed \$100,000.00 under Article Third (A) of the will. However, Article Seventeenth of the will provides that any gift made in Article Third should be reduced by the amount such legatee receives as the surviving joint tenant of funds deposited in the name of decedent and such legatee as joint tenants with right of survivorship or which such legatee receives as the beneficiary of a totten trust bank account established by decedent.

_____ received \$79,375.24 as the surviving joint tenant of a joint account. Therefore, her bequest under Article Third(A) is reduced to \$20,624.76. This schedule reflects that the sum of \$18,207.26 has been paid in partial satisfaction of this bequest. The sum of \$88,278.66 has been paid to decedent's sister, _____ in partil satisfaction of her \$100,000.00 legacy under Article Third (B) of the will. Each of decedent's four nieces or nephews who receive a \$75,000.00 leagacy under Article Third of the will has been paid the sum of \$66,208.99 in partial satisfaction of his or her bequest. It is noted that a portion of each of the aforesaid partial payment of legacies consisted of an assignment of a portion of a promissory note of _____. Inasmuch as the note was assigned for its face value plus accrued interest thereon, no objection is being interposed to this partial payment in kind to the pre-residuary beneficiaries.

§ _____ A partial distribution of \$7,500.00 has been made to the trust established under Article Fifth of decedent's will and of \$42,000.00 to the trust established under Article Sixth. These two trusts each consist of 50% of the residuary estate. The income from the Article Fifth Trust is to be paid in equal shares to decedent's nieces and nephew and the trustees have discretion to pay principal

to decedent's sisters, nieces or nephew and upon the termination of the trust any remaining principal shall be paid to decedent's living nieces and nephew with the share of any predeceased niece or nephew to be paid to his or her then living issue (my wards). The trust shall terminate upon the earlier of the 15th anniversary of decedent's death or the death of decedent's last surviving niece or nephew. Accordingly, my wards interest in this trust is as a contingent remainderman, the contingency being that upon the termination of the trust such ward is living and his or her mother is then deceased. The trustees have the discretion to pay the income from the Article Sixth trust to any one or more of decedent's grandnieces or grandnephews [my wards] or to accumulate the income and add it to principal. The trustee have discretion to pay the principal of this trust to a class consisting of decedent's sisters, grandnieces and grandnephews. Upon the termination of the trust, any remaining principal is to be paid in equal shares to decedent's living grandnieces and grandnephews and in the event any such beneficiary should predecease leaving issue then living his or her share should be paid to such issue. This trust terminates upon the earlier of the twenty-first anniversary of decedent's death or the death of the last survivor of decedent's sisters and nieces and nephews. Consequently, in the exercise of the discretion of the trustees, my wards could presently receive either or both principal or income from this trust and are the presumptive remainderman of the trust. From the foregoing it is obvious that my wards have a greater expectancy from the Article Sixth Trust then the Article Fifth Trust. Therefore, as their guardian ad litem I have no objection that through the period that this schedule accounts for, the Article Sixth

Trust has received a partial distribution which is \$34,500.00 larger than the distribution to the Article Fifth trust.

TWELFTH: Schedule F: This schedule reports the new investments, exchanges and stock distributions. For the most part this schedule consists of a reconciliation of the funds the estate invested in a Dreyfus Money Market Account which appears to have been an appropriate vehicle to invest the cash received from the liquidation of other assets. The one new investment listed is a \$168,513.33 promissory note of . obtained on November 5, 1982 in conjunction with the sale of 25,277 shares of the stock of that corporation on the same date. The acquisition of this promissory note would be the subject of close scrutinization in this report if it appeared that my wards had suffered or could potentially suffer a loss from this acquisition. However, this does not appear to be the case inasmuch as the entire promissory note has been assigned in portions as a partial distribution to the adult beneficiaries of this estate and they have accepted the same at face value plus accrued interest.

THIRTEENTH: Schedule G: This schedule balances with the preceding schedules and reflects that, at the close of the accounting period, the estate had on hand principal assets having an inventory value of \$246,473.53 and a market value of \$279,496.23. It has been verified that these assets were in fact on hand as of December 31, 1984. ✓

FOURTEENTH: Schedule A-2: This schedule reports income collected of \$104,675.53. It appears that all of the income that should have been collected has been collected and considering the assets of the estate at its inception that the estate has earned a ✓

reasonable rate of return.

FIFTEENTH: Schedule C-2: This schedule reports administration expenses of \$10,819.22 chargeable to income. These expenses represent federal and state fiduciary income taxes for the year 1982 and 1983 and are proper charges against income.

SIXTEENTH: Schedule E-1: This schedule reports that distributions of income totaling \$34,769.11 were made to the income beneficiaries of the trust established under Article Fifth of the will. Actually this schedule only reflects income distributions totaling \$34,500.00, the other \$269.11 representing loss of interest to two of the beneficiaries flowing from a late distribution of principal to them. Inasmuch as the income payments from this trust are not discretionary and the total share of the income allocated to this trust for this accounting period exceeds the income distributed, it does not appear that these distributions in any way prejudiced my wards or would be the proper subject for the filing of objections on their behalf.

SEVENTEENTH: Schedule G-1: This schedule reflects income on hand as of the close of the accounting period totaling \$59,090.20 and it balances with the preceding schedules. It has been verified that this balance was actually on hand as of December 31, 1984.

EIGHTEENTH: Schedule H: This schedule appears to contain a complete and accurate statement as to the interested parties.

NINETEENTH: Schedule I: This schedule indicates that all estate taxes are charged against the residuary estate and this appears proper in light of the direction to that effect in Article Fourteenth of the will.

TWENTIETH: Schedule J: This 8 page schedule covers the

computation of commissions and requests a total of \$85,677.61 in principal commissions and a total of \$7,861.82 in income commissions making the combined total of the two \$93,539.43. The computation of commissions is complicated by the death of one of the original executors and a successor appointed in his place and stead which has resulted in the following three different periods upon which the commissions must be computed: the entire accounting period, January 20, 1982 to December 31, 1984 for _____ who served as an executor for this period; the period of January 20, 1982 to October 9, 1982, which represents the period the deceased executor, _____, served as executor to the extent that the compensation payable to his estate is to be governed by statutory commissions; and the period of November 9, 1982 to December 31, 1984 for _____ who served as a successor co-executor for this period.

With regard to the deceased executor, it is a misnomer to say he is entitled to commissions because the extensive authority cited by Surrogate Sobel in Matter of McGrath, 74 Misc 2d 92, clearly holds that a deceased fiduciary is not entitled to commissions as such but is instead entitled to reasonable compensation which may not exceed in any event the amount of commissions as fixed by statute for the period served. This schedule requests the payment of \$20,550.47 in principal commissions to the estate of the deceased fiduciary which is the maximum amount that could be awarded under the rule set forth in Matter of McGrath, supra. There are two reasons why allowing compensation in that amount might be too large in this estate. The deceased executor only served as an executor for seven months and if his estate were to be awarded the full compensation

requested he would be receiving more than one-half of the commissions payable to the executor who served more than three times as long. Secondly, it might be inappropriate to award the full amount of the principal commissions requested for the three different fiduciaries, to wit, the sum of \$85,677.61 inasmuch as in the 706 as amended a deduction of only \$82,028.71 was taken for principal commissions. For all of the above reasons it might be appropriate for the court to reduce the compensation payable to the estate of the deceased fiduciary by \$3,648.90 (\$85,677.61 - \$82,028.71).

It also appears that the computation of the principal receiving commissions of _____ might be slightly off inasmuch as the computation of unrealized gains as shown by Schedule G would have to be computed from November 9, 1982, the date of his appointment rather than January 20, 1982 and it is highly unlikely that his increase would be the same \$33,022.70 as was reported for _____ which was computed on the basis of the inventory value on January 20, 1982. If it is deemed warranted this one aspect of the commission should also be recomputed.

TWENTY FIRST: Schedule K: This schedule is a statement of other pertinent facts and of cash and security reconciliation. This schedule projects that the principal amount available for distribution will be \$140,115.74 and, if there is added to this sum, the \$49,500.00 of principal previously distributed to the two residuary trusts, the total distribution to the residuary trusts will be \$189,615.74. Of course, if principal commissions are reduced by \$3,648.90 as suggested herein, the principal available for distribution would be increased by that amount with one-half of that increased amount payable to each of the residuary trusts. Other than

the issue as to commissions, the account appears to be properly reconciled and the proper distribution of principal assets is evenly divided between the two residuary trusts other than for the sum of \$34,500.00 which is to be distributed to the Article 5 trust and represents the difference between the amount previously distributed to the two trusts.

CONCLUSIONS

The commissions should be reduced by at least \$3,648.90 for the reasons set forth in paragraph Twentieth hereof and in all other respects the account may be judicially settled as submitted.

November , 1985

Respectfully submitted,

Guardian ad Litem

Exhibit G

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

.....x
PROBATE PROCEEDING,

A/k/a _____, : REPORT OF
GUARDIAN AD LITEM

Deceased. : File No.

.....x

_____, an attorney at law in
the State of New York, affirms and reports as follows:

1. An instrument dated _____,
_____, has been offered for probate as
decedent's Will (hereinafter referred to as "decedent's
Will"), and an instrument dated _____ has
been offered for probate as a Codicil to decedent's Will
(hereinafter referred to as the "Codicil"). By Order of
this Court dated _____, I was appointed
Guardian Ad Litem for _____, a purported distributee
of decedent, who is an infant under the age of fourteen
(14). I duly filed my Consent to Act and Notice of
Appearance herein.

I. JURISDICTION

2. Distributees: According to the papers filed in this proceeding (which have been amended and supplemented a number of times):

(i) Spouse; Parents decedent was not survived by a spouse or parents.

(ii) Issue of Decedent: Determining whether there are issue of decedent who would be distributees is a complicated question to determine, involving the "adoption out" provisions of the New York Domestic Relations Law. As the Court of Appeals stated in Matter of Murphy (infra), "the issue is `issue'".

Article _____ of decedent's Will gives to _____, Article _____ gives _____, and Article _____ of decedent's Will gives his residuary estate to _____. In each of the dispositive paragraphs decedent refers to

_____." Article Article _____ of decedent's Will gives _____ to _____

I questioned counsel for the proponent about the apparent discrepancy between the references in decedent's Will to his biological descendants, and the statements in the probate petition and the Affidavits of Due Diligence that decedent had no issue. Counsel advised me that _____ was in fact decedent's _____, but that _____ . Accordingly, in the first instance,

There is a recent New York Court of Appeals case, however, which indicates that the status of _____ as an intestate distributee of decedent may have been reinstated by reason of the provisions of decedent's Will. In Matter of Murphy, 6 N.Y.3d 36, 809 N.Y.S.2d 500 (2005), the Court of Appeals decided that, because decedent made pre-residuary and residuary bequests in her Will to her "adopted out" child, he was reinstated as her issue. The "adopted out" child

predeceased decedent, the "anti-lapse" statute (EPTL 3-3.3) was triggered, and his children got his bequests.

In 1924 Mildred Murphy gave birth to a son, named Arthur. Arthur went to live with the Manning family, and in 1944, at age 19, Arthur was adopted by Mr. and Mrs. Manning. He was then known as Clair Willard Manning.

In 1998 Mildred executed a Will. Article FIFTH provided, in relevant part:

"I give, devise and bequeath to Clair W. Manning of Wellsboro, PA [certain real property and tangibles]. I further give to Clair W. Manning the sum of Eight thousand dollars (\$8,000)."

Mildred also gave Clair one-half (½) of her residuary estate, and gave cash bequests to two of his children.

Clair predeceased Mildred, leaving four children. After Mildred's Will was admitted to probate a construction proceeding was commenced to determine whether, under New York's anti-lapse statute,¹ Clair's children would receive his testamentary bequests.

¹ EPTL 33-3.3, which provides that when a bequest is made to the issue or siblings of a testator, and the beneficiary predeceases the testator, the gift does not lapse but instead vests in the beneficiary's surviving issue.

The Court of Appeals determined that Clair was "issue" of Mildred's, that the anti-lapse statute applied, and that Clair's children were entitled to his bequests.

The Court stated:

"In 1986, the Legislature revised subdivision (b) of EPTL 3-3.3, along with Domestic Relations Law section 117, defining "issue" - for the purpose of triggering the anti-lapse provision - to "include adopted children and their issue to the extent they would be included in a disposition to 'issue' under EPTL 2-1.3 and Domestic Relations Law section 117(2)." Domestic Relations Law section 117(2) (a) provides:

"`Except as hereinafter stated, after the making of an order of adoption, adopted children and their issue thereafter are strangers to any birth relatives for the purpose of interpretation or construction of a disposition in any instrument, whether executed before or after the order of adoption, which *does not expressly include the individual by name or by some classification not based on a parent-child or family relationship.*'

"The Manning children contend that by naming their father - the adopted out child - as a beneficiary under her will, Mildred altered his status from "stranger" to "issue" for the purposes of the anti-lapse statute with respect to the gift. Because much of Domestic Relations Law section 117(2) (a) would lose meaning if we were to rule otherwise, we agree with this contention and reverse the Appellate Division order."

The portion of the statute quoted above deals

with the construction of an instrument, and it is possible that a person could be "issue" for purposes of the anti-lapse statute, but not for purposes of intestacy.

If _____ is deemed to be issue of decedent for purposes of inheriting through intestacy, a citation should be issued to her, and it would not be necessary to cite decedent's more remote relations (including my ward, _____, as described in detail below). In any event, a citation should be issued to her as a person adversely affected by a codicil, as discussed below.

THE FOLLOWING DISCUSSION OF DECEDENT'S
INTESTATE DISTRIBUTEES IS BASED ON THE PROPOSITION THAT
WAS "ADOPTED OUT", AND IS NOT AN
INTESTATE DISTRIBUTEES OF DECEDENT.

(iii) Issue of Decedent's Parents: decedent's father and mother were married in _____ and decedent was the sole child of that marriage. His father and mother subsequently divorced. Decedent's father remarried in or about _____, to a woman named _____. There were three children of that marriage:

and

(a) _____, who is a half-brother of decedent, survived decedent, and **would be a distributee.**

(b) _____ predeceased decedent (2001), leaving two children:

. Both _____, who are a half-nephew and half-niece of decedent, respectively, survived decedent, and **would be distributees.**

(c) _____ predeceased decedent (1988), leaving two children:

(I) _____, who is a half-nephew of decedent, survived decedent, and **would be a distributee.**

(II) _____ predeceased decedent, leaving three children:

. All three children, who are half-grandnephews of decedent, survived decedent, and **would be distributees.** _____ is an infant under the age of fourteen (14), and is my ward. Under the laws of intestacy he would be entitled to 1/18th of the estate

(1/3 x 1/2 x 1/3)

3. Persons Adversely Affected By Codicil: A citation must issue to persons who are adversely affected by the Codicil to decedent's Will.

(a) Persons Directly Adversely Affected By Codicil: The Codicil revoked Sections , and of Article of decedent's Will, and the following bequests:

\$

\$

\$

I was advised by counsel for the proponent that predeceased decedent, and that in fact decedent revoked the legacy of \$ to because he was dead. In addition, court papers in the probate file indicate that died approximately five years before decedent, which would have been prior to the execution of the Codicil in . The revocation of the legacies of \$ to and \$ to was superfluous, since the legacies were automatically revoked by and predeceasing

decedent.²

(b) Person Indirectly Adversely

Affected By Codicil: The beneficiary of the residuary estate () would be adversely affected by the codicil if the codicil reduced the amount of the residuary estate passing to her.

The Codicil eliminated a bequest of \$: (in addition to the non-effective revocation of the bequests to : and).

The Codicil added \$: of bequests:
\$
\$

Since the residuary estate was reduced by the net amount of \$ (new legacies of \$, less an eliminated legacy of \$), , as residuary legatee, is adversely affected by the codicil, and a citation should be issued to her for that reason (in addition to her being a potential distributee).

4. Proofs of Service of Citation: I have reviewed the proofs of service of the citation.

² EPTL 3-3.3; New York Estate Administration (2006 ed.), Turano & Radigan, Section 3.11, fn. 11, pp. 145-6.

A citation was issued on _____ to _____
" _____ "
_____ and _____ executed waivers and
consents, and it turned out that _____ was not a
necessary party because she predeceased decedent.

A supplemental citation was issued on _____
to "

_____ ³ an infant
under 14 years of age." I have reviewed the proofs of
service, and have determined that these persons were
timely served.

I conclude therefore that jurisdiction has
been obtained over all necessary parties.

II. QUALIFICATION OF EXECUTORS

5. Article _____ of decedent's Will names
_____ and _____ as his
Executors. _____ is deceased, and
and _____ are the proper petitioners in this
proceeding. I have reviewed their Oaths and
Designations, and am satisfied that they have properly

³ I believe the citation should have been issued to _____, rather than to "
_____", but assume that the citation as issued is satisfactory to the Court.

qualified as Executors.

III EXECUTION OF WILL

6. The decedent's Will was executed on _____, and was witnessed by _____,

_____ (the attorney draftsman) and _____.

Affidavits of all three witnesses as to the execution of the Will have been filed in Court.

The Codicil was executed on _____,

and was witnessed by _____ (the attorney draftswoman) and _____.

A self-proving affidavit was attached to the Codicil.

7. I have also examined the original Will and Codicil on file in the Surrogate's Court, and they appear to be unremarkable and free of imperfections which would cause me to question their execution or genuineness.

IV. CAPACITY; NATURAL OBJECTS OF DECEDENT'S BOUNTY

8. While it appears from an overall review of decedent's testamentary pattern that he had capacity and knew the natural objects of his bounty, decedent's Will contains strange provisions which I have never seen before in thirty-six years of practice in the area of

trusts and estates.

(c) Article provides that decedent's remains be created, that half thereof be buried with his wife and mother, and that the other half "be placed at the Cemetery" (apparently whether or not he has a dog there, since he goes on to provide that if he has a dog, it is to be cremated on its death and its remains "placed" in the same cemetery).

(b) Sections , and of Article respectively give gifts of \$ to each of " , " " and " and ". I assumed, without knowing the facts, that these gifts were meant to express decedent's displeasure with these persons, but on the other hand, thought it entirely possible that these gifts were made with the best of intentions, to honor these persons by mentioning them in in the Will. I spoke with counsel for Petitioners. It was his understanding that these legatees of \$ were cousins of his wife, and he somehow believed that the legacies would have an "in terrorem" effect, and that the legatees would be prevented from contesting the Will by reason of these

legacies.

9. On the other hand decedent's testamentary pattern is very common, and does not raise any suspicions.

(a) Decedent's Will makes nominal bequests to unrelated persons (approximately \$) and nominal charitable bequests (approximately \$'), makes a bequest of \$ to his , and leaves his residuary estate (the value of decedent's probate estate is estimated at \$' in the probate petition) to his .

(b) There is no indication that decedent had any kind of personal relationship with the issue of his father's second marriage. Friends of his for 30 years (l and

) have advised that he never mentioned these relatives. They were discovered by cold calls by counsel for Petitioners to 5 persons with the surname " " who had listings in New York State.

(c) Undue influence also seems improbable. Decedent's basic testamentary pattern was unchanged for at least 12 years (his Will was executed in), and his daughter, , has lived in

for approximately 20 years. It does not appear that decedent and his daughter communicated frequently and there was therefore little or no opportunity for undue influence.

IV. RECOMMENDATION

For all the reasons stated above, I respectfully suggest that process be issued to

(or that she be given the opportunity to sign a Waiver and Consent), as (i) a person adversely affected by the Codicil which has been offered for probate, and (ii) as a possible distributee (depending on a legal determination as to whether her rights to inherit in intestacy have been restored after her having been "adopted out").

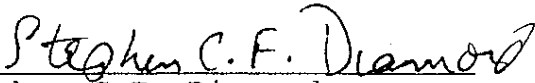
Upon jurisdiction being complete, I recommend that decedent's Will and Codicil be admitted to probate. I make this recommendation even though it does not favor my ward.

"The primary allegiance of the guardian ad litem is the ward, but he or she has a concurrent obligation as an officer of the court to make a thorough, fair and objective report." Guidelines for Guardians Ad Litem, May, 2003, revised and edited by the

Committee to Revise the Guidelines for Guardians Ad Litem, at Page 22."

Dated: Millbrook, New York
May 9, 2006

Respectfully submitted,


Stephen C.F. Diamond
Stephen C.F. Diamond
Guardian Ad Litem

TO:

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X	:	
	:	
PROBATE PROCEEDING,	:	
	:	
WILL OF	:	AFFIDAVIT OF SERVICE
	:	BY MAIL
	:	
a/k/a !	:	File No.
	:	
	:	
Deceased.	:	
	:	
-----X	:	

STATE OF NEW YORK)
) ss.:
 COUNTY OF DUTCHESS)

, being duly sworn, says:

1. I am not a party to the action, am over 18 years of age, and reside at , , New York .

2. On , I served a true copy of the annexed Report of Guardian ad Litem, by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known address of the addressee as indicated be follows:

Sworn to before me this
9TH day of May, 2006
