

LC

IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

In Re: Estate of Chris Steven Kuzmanoff,
Deceased
Fiduciary No. FI-2008-0001152

Commissioner's Report
of Debts and Demands

To the Honorable Judges of the Circuit Court of Fairfax County, Virginia:

At the request of Richard J. Kuzmanoff, administrator for the above estate, the undersigned gave the notice required by Virginia Code § 64.1-171, setting the 14th day of April, 2010 at 1:00 p.m. at the office of your commissioner in Fairfax, Virginia, as the time and place for receiving proof of debts and demands against the estate of Chris Steven Kuzmanoff. At the said time and place, Richard J. Kuzmanoff, administrator, along with counsel, Greg Hunter, appeared on behalf of the estate. No other person appeared to offer proof of any debts or demands against said estate.

The following claims against the estate were filed with your commissioner:

Creditor Claims of America	\$10,667.74
Bank of America	\$2,950.72
SunTrust	\$14,012.48
Chase Bank	\$13,206.59

The undersigned provided notice of the hearing to each outstanding claimant, a copy of which is attached hereto as Exhibit 1. At the hearing, the estate informed your commissioner of two additional claims against the estate:

First Hawaiian Bank	\$9,865.39
Smith Barney Visa	\$11,671.66

The estate did not provide notice of the hearing to any of the claimants; however, Virginia Code § 64.1-171 requires such notice only for disputed claims. The estate does not dispute the validity of any of the claims.

The administrator provided evidence indicating that, prior to the hearing, he settled the claims of Chase Bank for \$2,525.07 and of First Hawaiian Bank for \$1,889.23. As the settlement amounts are less than the

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Fiduciary #: FI-2008-0001152
Date 05/31/2011
Estate KUZMANOFF, CHRIS STEVEN
Recorded in
FAIRFAX COUNTY CIRCUIT COURT
TESTE JOHN T FREY

amount of the claimants' otherwise allowable pro-rata disbursements and as the creditors provided releases of their claims, your commissioner finds that the claims of Chase Bank and First Hawaiian Bank have been satisfied and released. The remaining claims at issue are those of Creditor Claims of America, Bank of America, SunTrust and Smith Barney Visa.

At the hearing, the estate represented that the estate was likely insolvent. Your commissioner was unable to make such a determination prior to the filing of necessary accounts with your commissioner setting forth administrative and other priority claims. Based upon the first and second accounts filed with your commissioner, your commissioner finds that the decedent's estate is insolvent and is unable to pay the claims in full. Your commissioner allowed the claims against the estate as set forth hereinabove, to be satisfied pursuant to Virginia Code § 64.1-157 and consistent with the findings below.

Any outstanding administrative costs, including fiduciary fees and fees due the commissioner's office are allowed as priority 1 claims. The administrator provided evidence that he has not yet been reimbursed for \$1,608.27 in expenses he advanced to the estate. As these expenses were necessary administrative costs, your commissioner allows such expenses as priority 1 claims, subject to the reimbursement requirements set forth hereinafter. Additionally, for an estate of this size, the fiduciary fee guidelines adopted by this court recommend a fiduciary fee of \$2,068.70. Your commissioner allows a fiduciary fee in such amount, subject to the reimbursement requirements set forth hereinafter.

The Amended First Account filed with your commissioner reports that the estate paid \$4,685.84 for funeral related expenses. Virginia Code § 64.1-157 allowed funeral expenses of \$2,000.00¹; thus, your commissioner finds that the administrator improperly disbursed \$2,685.84 for funeral expenses.² The Amended First Account also reports that the administrator distributed \$400.00 worth of tangible personal property to the beneficiaries of the estate. As the administrator made distributions to beneficiaries from an insolvent estate, the fiduciary is personally liable to reimburse the estate for such

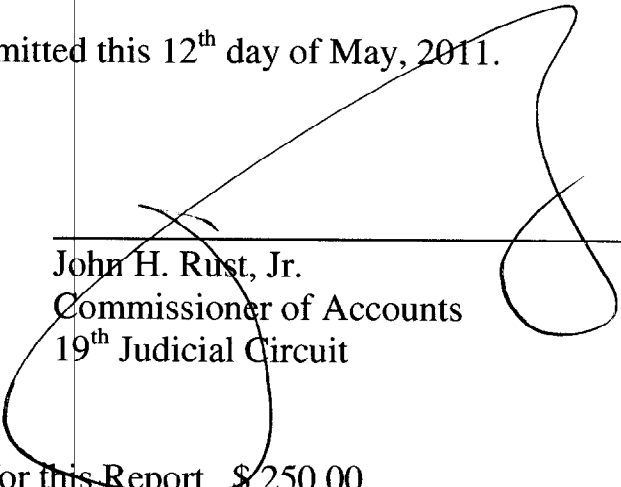
¹ Effective July 1, 2008, the legislature amended Va. Code 64.1-157(3) increasing the maximum statutory allowance for funeral expenses from \$2,000 to \$3,500. In your commissioner's opinion, the new allowance should apply to claims for funeral expenses that accrue after July 1, 2008. See Va. Code. § 1-239. In this case, the funeral expenses accrued prior to July of 2008. Therefore, the previous allowance should apply.

² See, *Herelick v. Southern Dry Goods & Notion Co., Inc.*, 139 Va. 121, 123 S.E. 529 (1924) (A fiduciary is personally liable for overpayment to creditors beyond their pro rata share of an estate.)

improper distributions.³ Thus, the fiduciary has personally responsibility to return a total of \$3,085.84 to the estate. The fiduciary is also entitled to reimbursement and fiduciary fees from the estate in the amount of \$3,676.97, as set forth above. Your commissioner directs that the fiduciary set-off the amount which he is required to reimburse the estate from the amount which is due to him and the fiduciary shall pay to himself no more than \$591.13.

Based upon the representation of the fiduciary, the claim of Creditor Claims of America is for medical services unrelated to the decedent's last illness. Thus, the claim is not entitled to any special priority and is allowed in its entirety as a priority 9 claim. All other claims are also allowed as priority 9 claims. Your commissioner directs that the priority 9 claims receive pro-rata disbursements of the estate's assets remaining after satisfaction of administrative expenses.

Respectfully submitted this 12th day of May, 2011.



John H. Rust, Jr.
Commissioner of Accounts
19th Judicial Circuit

Commissioner's Fee for this Report	\$ 250.00	
Publication costs	\$ 10.00	
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Total Amount Due	\$ 260.00	PAID

³ *Bliss v. Spencer*, 99 S.E. 593, 125 Va. 36 (1919) (A fiduciary is personally liable for distributing the personal assets of a decedent when there are insufficient funds for the payment of the estate's debts.)

CERTIFICATE OF MAILING

I hereby certify that on this 12th day of May, 2011, a true and correct copy of the above Commissioner's Report was mailed, first-class mail, postage prepaid, to the following persons at the addresses shown below:

Richard J. Kuzmanoff
300 Mainsail
Grayslake, IL 60030

XL Insurance
Attn: Richard J. Kuzmanoff
190 South LaSalle Street
Suite 950
Chicago, Illinois 60603

Gregory T. Hunter
20555 North 15th Street
Suite 302
Arlington, Virginia 22201

Creditor Claims of America
611 Sligo Ave.
Silver Spring, MD 20910

Bank of America
P.O. Box 15409
Wilmington, DE 19885-5409

Sun Trust
Attn: Scott DeLance
P.O. Box 3773
Omaha, NE 684103-0773

First Hawaiian Bank
P.O. Box 4070
Honolulu, HI 96812

Chase Bank USA
c/o Phillips & Cohen Associates, Ltd.
1002 Justison Street
Wilmington, Delaware 19801

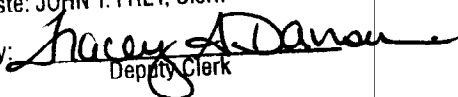
Citibank
c/o Phillips & Cohen Associates, Ltd.
1002 Justison Street
Wilmington, Delaware 19801

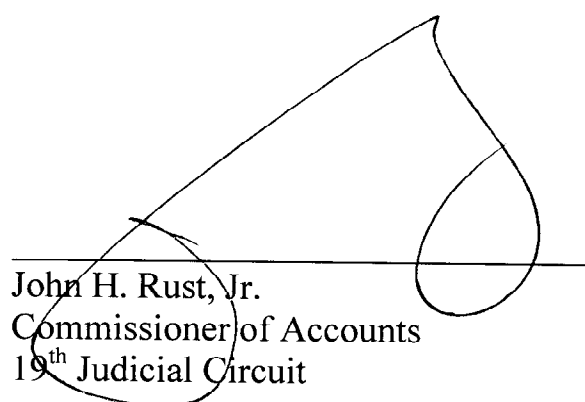
I, JOHN T. FREY, Clerk of the Circuit Court of Fairfax County, Virginia, do hereby certify that the foregoing Account or Report has been filed in my office for more than fifteen days, and that no exceptions have been filed thereto, and the same is now recorded pursuant to the provisions of §§26-33 and 26-35 of the Code of Virginia, as amended.

Teste: JOHN T. FREY, Clerk

5/31/11
Date

By:


Deputy Clerk

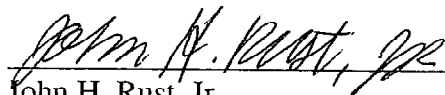

John H. Rust, Jr.
Commissioner of Accounts
19th Judicial Circuit

IN THE OFFICE OF THE COMMISSIONER OF ACCOUNTS
CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

IN RE: **Estate of Chris Steven Kuzmanoff,**)
 Deceased) **NOTICE**
 Fiduciary No. FI-2008-0001152)

Pursuant to the provisions of §64.1-171 of the Code of Virginia, 1950, as amended, notice is hereby given that the undersigned Commissioner of Accounts has appointed the 14th day of April 2010, at 1:00 P.M., at his office at 10555 Main Street, Suite #500, Fairfax, Virginia, as the time and place for receiving proof of debts and demands against the estate of Chris Steven Kuzmanoff, at the request of Richard J. Kuzmanoff, administrator for said estate.

Given under my hand as Commissioner of Accounts this 3rd day of March, 2010.



John H. Rust, Jr.
Commissioner of Accounts for
Fairfax County, Virginia
BY: BRH

JHRJ:brh

