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IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

In Re: Estate of John Theodore Finley, deceased  
Fiduciary No. FI-2011-0000346

Commissioner's Report  
of Debts and Demands

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

At the request of Timothy M. Finley, co-fiduciary of the above estate, the undersigned gave the notice required by Virginia Code § 64.1-171,<sup>1</sup> setting the 1<sup>st</sup> day of December, 2011 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 John Theodore Finley. At the said time and place, Tim Finley and Patrick Finley, co-fiduciaries, appeared on behalf of the estate. No other person appeared to offer proof of any debts or demands against said estate.

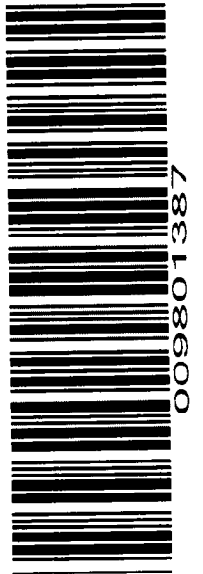
*Claims against the Estate*

One creditor filed a claim with your commissioner in the following amount:

Navy Federal Credit Union \$14,808.34

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

Inova Home Health	\$433.86
Fairfax Radiological Consultants PC	\$30.00
Roberts Home Medical, Inc.	\$99.42
Juno, a United Online Company	\$26.93
Bank of America	\$1,585.88
DirecTV	\$1,108.73
Sprint	\$835.24
American Express	\$114.07
Fairfax County	\$26.19
Internal Revenue Service	\$3,952.00



<sup>1</sup> Now VA. CODE ANN § 64.2-550.

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Virginia Dept. of Taxation	\$2,273.55
Timothy Finley (to reimburse for real property taxes paid)	\$350.00

The estate did not provide notice of the hearing to any of the claimants; however, Virginia Code § 64.2-550 requires such notice only for disputed claims. The estate does not dispute the above claims, but states it is insolvent and unable to pay such claims in full. As the foregoing claims are not disputed, your commissioner allows the claims in full, in the amounts shown, except as otherwise expressly set forth herein, to be satisfied in accordance with the priorities set forth in Virginia Code § 64.2-528.

At the hearing before your commissioner, the fiduciaries discussed certain expenses that had been paid from the account that the decedent held jointly with Timothy Finley to benefit the children of the decedent, principally payment of health insurance premiums. As the expenditure is from an account that passed to Timothy Finley by virtue of the survivorship nature of the account, the funds are outside the assets of the estate. Your commissioner advised that no sums would be available from the estate for the beneficiaries unless the spouse or the children timely filed a claim for a family allowance or other statutory allowance. The fiduciaries indicated that they would seek to have such a claim filed; however, your commissioner received no notice that a claim for a statutory allowance has been filed and the clerk's office has no record of any such claim. The fiduciaries did file notice of such a claim with your commissioner; however, such notice is not sufficient under the statute to constitute a claim for statutory allowances. The time for filing a claim for a statutory allowance has now lapsed. Based upon the foregoing, your commissioner is of the opinion that no valid claim for any statutory allowance has been filed.

#### *Order of Payment of the Estate's Debts*

Pursuant to Virginia Code § 64.2-528, any outstanding administrative costs, including fiduciary fees and fees due the commissioner's office are allowed as priority 1 claims. Administrative costs would include reimbursement to Timothy Finley for administrative costs previously paid from the joint account he held with the decedent, which passed to him by right of survivorship. Your commissioner will also allow the fiduciaries a fiduciary fee of \$500.00 in light of the effort required to administer the relatively small estate. Such fee is also an administrative cost. To the extent

that the assets in the estate are insufficient to satisfy all of the priority 1 expenses, your commissioner directs that all priority 1 claimants receive pro-rata disbursements of the estate's assets.

The fiduciaries provided your commissioner with documentation indicating that the claim of Fairfax County in the amount of \$26.19 arises out of personal property tax owed on the decedent's vehicle accruing after his death. The vehicle was a 1998 Toyota that Fairfax County assessed at \$3,000.00. The fiduciaries believe that the vehicle was titled in the name of the decedent, but used by the decedent's son. The fiduciaries testified that they omitted the vehicle from the inventory; however, they planned to adjust in the value of the vehicle on the next account filed. Subsequent to the hearing, the fiduciaries advised your commissioner that the decedent's spouse obtained a duplicate title from the Department of Motor Vehicles upon representation that the decedent left no will and transferred the vehicle to her mother, where the decedent's son resides and who continues to use the vehicle. As the fiduciaries never came into possession of the vehicle, the fiduciaries are not required to account for its disposition. Whether the fiduciaries elect to pursue the decedent's spouse, the decedent's mother-in-law, and the decedent's son for the value of the vehicle is a matter within their discretion; in any event, the vehicle is not an asset of the estate. Your commissioner notes that there are limited assets in the estate with which to pursue such recourse, there is no assurance of recovery, and the assessed value of the vehicle was \$3,000.00 in 2011. Your commissioner will not require that the fiduciaries seek to recover the value of the vehicle. As the fiduciaries never took control of the motor vehicle, your commissioner further finds that the personal property tax is a debt of the motor vehicle owner and not the estate. Your commissioner therefore denies the claim for post-death personal property tax in its entirety.

At the hearing before your commissioner, the fiduciary indicated that the decedent's father personally satisfied funeral expenses of the decedent in the amount of \$8,659.00. Pursuant to Virginia Code § 64.2-528(3), the decedent's father is entitled to reimbursement as a priority 3 creditor for the first \$3,500.00 of the funeral expenses, and as a priority 9 creditor for the balance of said expenses. Your commissioner directs that the priority 3 claims receive pro-rata disbursements of any estate assets remaining after full satisfaction of the priority 1 claims.

At the hearing, the fiduciary provided documentation to your commissioner indicating that the decedent had an outstanding federal income tax liability of \$3,952.00 for the 2010 tax year. Pursuant to Virginia Code § 64.2-528(4), the federal government is entitled to the payment of debts and taxes as a priority 4 creditor. Your commissioner directs that the priority 4 claim receive disbursements of any estate assets remaining after full satisfaction of the higher priority claims.

The claims of Inova Home Health, Fairfax Radiological Consultants, and Roberts Home Medical, Inc. are expenses of last illness. All three claimants are health care providers of goods or services, rather than hospitals, and are entitled to priority as class 5 creditors up to the sum of \$150.00, and as a priority 9 creditor for the balance of their claims. Your commissioner directs that the priority 5 claims receive disbursements of any estate assets remaining after full satisfaction of the higher priority claims.

The fiduciary also provided documentation to your commissioner at the hearing indicating that the decedent had an outstanding Virginia income tax liability of \$2,316.13 for the 2006 tax year. The fiduciary provided your commissioner with three Notices of Tax Liens and a Demand for Payment of State Taxes informing the decedent that the Department of Taxation had issued liens against the decedent's employer and two bank accounts. The liens arose out of individual state income taxes due for the 2006 tax year, assessed on November 2, 2009. Pursuant to Virginia Code § 64.2-528(6), the Commonwealth of Virginia is entitled to payment of debts and taxes as a priority 6 creditor. Your commissioner directs that the priority 6 claim receive disbursements of any estate assets remaining after full satisfaction of the higher priority claims.

The claim of Timothy M. Finley for reimbursement of real estate taxes paid relates to the decedent's one-third interest in undeveloped real estate located in King George County, Virginia. In light of your commissioner's determination set forth hereinafter, such real property is not available for satisfaction of the decedent's creditors. The payment of such taxes is therefore not for the preservation of assets of the estate. Your commissioner denies such claim as not properly an estate expense.

All other claims against the estate are allowed in their entirety as priority 9 claims. Your commissioner directs that the priority 9 claims

receive pro-rata disbursements of any estate assets remaining after full satisfaction of the higher priority claims.

*Obligation to Sell Realty to Satisfy Debts of the Estate*

During his lifetime, the decedent owned an undivided one-third interest in a parcel of real estate located in King George County, Virginia, containing approximately 30.88 acres of land. The decedent's brothers, who are also the fiduciaries in this case, own the remaining two-thirds interest in the property. The property is undeveloped, has limited access through the property of another, and the decedent and his brothers used the property principally as a hunting preserve. In the inventory, the fiduciaries listed the property as a "1/3 share of 33 (sic) acres in King George Co., VA" and valued the land at between \$20,000.00 and \$30,000.00. The fiduciaries indicate in their testimony that they do not wish to sell their personal interests in the property and believe that there is a limited market for the property as a whole in any event. Your commissioner is of the opinion that it will be difficult for the estate to realize the decedent's proportionate share of the market value of the whole parcel, if the estate is required to sell only the decedent's one-third interest in the property.

The decedent's will incorporated by reference Virginia Code § 64.1-57,<sup>2</sup> which grants the executors the power

[t]o sell, assign, exchange, transfer and convey or otherwise dispose of, any or all of the . . . property, either real, personal or mixed, which may . . . at any time become part of the . . . estate upon such terms and conditions as the fiduciary, in his absolute discretion, may deem advisable.<sup>3</sup>

In Virginia, incorporation of the statute by reference remains the most common means of granting a power of sale to the executor. The will contained no conditions upon that power of sale and did not specifically require the sale of the real estate. The will further directs that the "entirety of [the decedent's] estate, real, personal and mixed" be distributed equally to the decedent's four sons. The fiduciaries state that they do not wish to sell the decedent's real estate. If the matter is one in which they have discretion,

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<sup>2</sup> Now VA. CODE ANN. § 64.2-105.

<sup>3</sup> VA. CODE ANN. § 64.2-105(B)(1).

they will not exercise the power of sale. The fiduciaries sought your commissioner's aid and direction in determining whether they were required to sell the real property to satisfy the debts of the estate.

It is clear from the findings contained above in this report that the debts of the decedent far exceed the personal property in the probate estate. The issue presented, therefore, is whether a fiduciary to whom the power to sell real estate has been granted must exercise that power when the claims of creditors exceed the value of the personal property available to satisfy the decedent's debts. For the reasons set forth more fully hereinafter, your commissioner is of the opinion that a fiduciary may not be compelled to exercise a discretionary naked power of sale.

Under the laws of the Commonwealth, a decedent's estate remains liable for the decedent's debts subsequent to his death.<sup>4</sup> An executor or administrator, as a fiduciary, is responsible for the management of a decedent's estate.<sup>5</sup> The fiduciary bears a duty to demand and receive the decedent's estate, to ascertain the decedent's debts and distributees, and report the administration of such to the court.<sup>6</sup> Executors are responsible for payment of the decedent's debts from the estate assets.<sup>7</sup> Nevertheless, in Virginia, "it is the general rule that the personal estate is the primary fund for the discharge of the debts, and is to be first applied and exhausted, even in payment of debts for which the real estate may be expressly charged by mortgage."<sup>8</sup> Executors are therefore responsible only for the finite resources of the estate:

The executor is charged with the administration of the personal assets, and such real assets as may be charged with the payment of debts by the will; but otherwise his relations to the real estate, to the heir descended or devises, remain as heretofore; that is, as such, he has no concern with them whatever.<sup>9</sup>

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<sup>4</sup> See *Denny v. Searles*, 150 Va. 701, 735, 143 S.E. 484, 495 (1928).

<sup>5</sup> See *Boyd's Sureties v. Oglesby*, 64 Va. (23 Gratt.) 674, 683-84 (1873).

<sup>6</sup> *Denny*, *supra*, 150 Va. at 735, 143 S.E. at 495.

<sup>7</sup> *Broaddus v. Broaddus*, 144 Va. 727, 130 S.E. 794 (1925).

<sup>8</sup> *Elliott v. Carter*, 50 Va. (9 Gratt) 541, 549 (1853). See also *Peatross v. Gray*, 181 Va. 847, 856, 27 S.E.2d 203, 208 (1943) (*citing* *Todd v. McFall*, 96 Va. 754, 762-63, 32 S.E. 472 (1899); *New v. Bass*, 92 Va. 383, 389, 23 S.E. 747 (1895)).

<sup>9</sup> *Peirce v. Graham*, 85 Va. 227, 235, 7 S.E. 189, 194 (1888) (*citing* *Litterall v. Jackson*, 80 Va. 604 (1885)).

Virginia has nonetheless enacted legislation providing that, upon exhaustion of the personal estate, a decedent's real estate is available for the satisfaction of the debts of the decedent:

All real estate of any person who may hereafter die, as to which he may die intestate, or which, though he die testate, shall not by his will be charged with or devised subject to the payment of his debts, or which may remain after satisfying the debts with which it may be so charged or subject to which it may be so devised, shall be assets for the payment of the decedent's debts and all lawful demands against his estate, in the order in which the personal estate of a decedent is directed to be applied.<sup>10</sup>

The statute provides creditors a direct remedy against a decedent's realty when the decedent's personal estate is insufficient to satisfy the debts. The Supreme Court of Virginia has interpreted this statute on numerous occasions and has consistently held that it does not alter the common law rule that a decedent's personal estate is the primary source for payment of debts.<sup>11</sup>

Under the laws of the Commonwealth, a fiduciary of a decedent's estate has no power to interfere with the descent of real estate.<sup>12</sup> Rather, at the decedent's death, the real estate vests immediately in his heirs.<sup>13</sup> In Virginia, only the Court or the testator may empower the fiduciary to deal with the decedent's real estate.<sup>14</sup> The fiduciary generally obtains such power or right through the grant of a power of sale. There are two types of powers of sale granted in Virginia, a power of sale coupled with an interest and a naked power of sale. A naked power of sale may also be either mandatory

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<sup>10</sup> VA. CODE ANN. § 64.2-532. Virginia has also authorized the personal representative to file suit to recover a creditor's claim due from the estate against an heir receiving property from the decedent. *See* VA. CODE ANN. § 64.2-536.

<sup>11</sup> *See* *Frasier v. Littleton*, 100 Va. 9, 40 S.E. 108 (1901); *McCandlish v. Keen*, 54 Va. (13 Gratt.) 615 (1857).

<sup>12</sup> *Bruce v. Farrar*, 156 Va. 542, 545, 158 S.E. 856, 857 (1931); *Peirce, supra*, 85 Va. at 235, 7 S.E. at 194.

<sup>13</sup> *Bruce, supra*, 156 Va. at 545, 158 S.E. at 857; *Broaddus v. Broaddus*, 144 Va. 727, 742-43, 130 S.E. 794, 799 (1925).

<sup>14</sup> *Neblett v. Smith*, 142 Va. 840, at 855, 128 S.E. 247, 252 (1925); *Broaddus, supra*, 144 Va. at 743, 130 S.E. at 799.

or discretionary. The nature of the power of sale delineates the titleholder of the decedent's real estate, as well as determines whether the real estate is within the decedent's probate estate and available for the payment of debts.

A power of sale coupled with an interest is in effect a devise to the fiduciary with a superadded power of sale that includes express direction to sell the real estate.<sup>15</sup> The fiduciary is then responsible for distributing the decedent's probate estate, including the proceeds of sale from the real estate. In such circumstances, "[t]he testator obviously did not design that until a sale of the land it should devolve on his heirs."<sup>16</sup> Therefore, a power of sale coupled with an interest automatically brings the decedent's real estate within the decedent's probate estate. Title to the real estate passes directly to the executor and the executor holds the property until the sale is effected.<sup>17</sup> The interest in the land devised to the executor "takes away the descent, and vests the estate of the land in the executor."<sup>18</sup> If the testator grants a power of sale coupled with an interest, the real estate and its proceeds are available for the payment of the decedent's debts, provided that the testator may direct the disposition of the real estate proceeds in a way that requires exhaustion of other personal estate before the real estate proceeds are available.

A mere power to sell, known as a naked power to sell, gives the executor no interest in the decedent's real estate. Title to the decedent's real estate passes to the devisees under the will or his heirs at law, subject only to divestiture should the fiduciary exercise the naked power of sale.<sup>19</sup> Accordingly, the devisees are entitled to use the property as their own until the fiduciary executes the power of sale.<sup>20</sup> If the fiduciary executes the power of sale, the devisees or heirs are divested of title, and the executors may convey good and marketable title to the decedent's real property.<sup>21</sup>

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<sup>15</sup> Stark v. City of Norfolk, 183 Va. 282, 288, 32 S.E.2d 59, 61 (1944); In re Estate of Woods, 71 Va. Cir. 224, 226 (Arlington County, 2006). See also Harrison, WILLS AND ADMINISTRATION § 21.25 (4th ed. 2011).

<sup>16</sup> Mosby's Adm'r v. Mosby's Adm'r, 50 Va. (9 Gratt.) 584, 594 (1853).

<sup>17</sup> Stark, *supra*, 183 Va. at 288, 32 S.E.2d at 61; Woods, *supra*, 71 Va. Cir. at 226.

<sup>18</sup> Mosby's Adm'r, *supra*, 50 Va. at 590 (quoting 1 Lomax on Executors 219).

<sup>19</sup> Stark, *supra*, 183 Va. at 288, 32 S.E.2d at 61; Coles' Heirs v. Jamerson, 112 Va. 311, 316-17, 71 S.E. 618, 619-20 (1911); Woods, *supra*, 71 Va. Cir. at 226.

<sup>20</sup> *Id.*

<sup>21</sup> Yamada v. McLeod, 243 Va. 426, 431, 416 S.E.2d 222, 225 (1992) (citing Stark, *supra*, 183 Va. at 288, 32 S.E.2d at 61; Coles' Heirs, *supra*, 112 Va. at 316, 71 S.E. at 619-20); Woods, *supra*, 71 Va. Cir. at 226.



A naked power of sale may either be mandatory or discretionary. If the testator directs the sale of the property, either expressly or by necessary implication, the power of sale is mandatory; however, title remains with the devisees until such sale is consummated. Where the exercise of the power of sale is mandatory, under the doctrine of equitable conversion, the Court will treat the real estate as personal property.

In the Commonwealth, “equity treats that as done which ought to be done.”<sup>22</sup> From this principle grows the doctrine of equitable conversion, whereby, “land which is directed to be converted into money is treated as money, and money which is directed to be invested in land is treated as land.”<sup>23</sup> In the case of a will, the sole purpose of the doctrine is to effectuate the intent of the testator.<sup>24</sup> When a will directs that land be sold and converted into money, such direction operates as a conversion causing the land to assume the character of personalty prior to any actual sale.<sup>25</sup> In those circumstances, a sale is obligatory and the testator’s clear direction of such sale effects an equitable conversion dating from the date of the testator’s death.<sup>26</sup> Therefore, the testator’s clear direction to sell results in the executor in effect possessing personal property, subject to the payment of debts, in lieu of real property. In contrast, when the testator’s will does not direct the fiduciary to sell, but rather provides the fiduciary a discretionary power of sale, no equitable conversion occurs.<sup>27</sup> In the case of a discretionary power of sale, the actual conversion to personal property only occurs at the time of a sale.<sup>28</sup> The extent of an equitable conversion is similarly proscribed by the intent expressed in the testator’s will.<sup>29</sup>

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<sup>22</sup> Moore v. Kernachan, 133 Va. 206, 211, 112 S.E. 632, 633 (1922).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* (citing Painter v. Painter, 220 Pa. 82, 87, 69 A. 323, 324 (Pa. 1908)).

<sup>25</sup> Marcy v. Graham, 142 Va. 285, 293, 128 S.E. 550, 553 (1925); Carr v. Branch, 85 Va. 597, 602, 8 S.E. 476, 478 (1889); Effinger v. Hall, 81 Va. 94, 107 (1885); Harcum’s Adm’r v. Hudnall, 55 Va. 369, 374-75 (1858); Tazewell v. Smith’s Adm’r, 22 Va. 313, 320-21 (1823).

<sup>26</sup> Moore, *supra*, 133 Va. at 211-20, 112 S.E. at 633-36. See also Carr, *supra*, 85 Va. at 601-02, 8 S.E. at 478-79; Tazewell, *supra*, 22 Va. at 320-21.

<sup>27</sup> Evans v. Kingsberry, 23 Va. (2 Rand.) 120 (1823). *Accord*, 7A M.J. *Equitable Conversion* § 4.

<sup>28</sup> *Id.*

<sup>29</sup> Where a testator directs a conversion for a special purpose and the purpose or intention fails, equity will regard the testator as not having directed the conversion. Moore, *supra*, 133 Va. at 213-21. Consequently, “in case of lands directed to be sold to pay the debts of

Therefore, in the opinion of your commissioner, the value of a decedent's real property is available to satisfy creditors when the fiduciary is granted a power of sale coupled with an interest or where the fiduciary is granted a naked power of sale that the will requires that he exercise. In the opinion of your commissioner, when the fiduciary is granted a discretionary naked power of sale and declines to exercise that power, the character of the property remains real estate and the executor cannot be compelled to exercise the power of sale. The creditors may seek recourse against the real estate pursuant to Virginia Code § 64.2-532; however they may not require the fiduciary to exercise his right to sell that real estate.

In the instant case, the testator vested the executors with the power of sale solely by incorporation by reference of Virginia Code § 64.1-57.<sup>30</sup> The will does not indicate that the testator intended to pass title to his real property to the executors, to the exclusion of the devisees. The language of the will therefore grants to the executors a naked power of sale. There is no express direction in the will to sell the real property; therefore, unless one finds that such sale is necessary by implication from the provisions of the will, the power of sale is discretionary.

The decedent's will directs that his "just debts and funeral expenses be paid by my executor . . . as soon as is practical," but does not direct any sale of real estate for the payment of such debts. Such standard provisions in most wills have uniformly been held not to charge the real estate for the satisfaction of debts.<sup>31</sup> A direction to pay debts adds nothing to the existing

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the testator, if the debts are paid without a sale, it remains land; or if sold, as nothing but the payment of debts was intended, all beyond will remain real estate." *Id.* (citing *Pratt v. Taliaferro*, 30 Va. 419, 423 (1832)). Additionally, where the testator directs real estate to be sold and the proceeds divided equally, the testator is deemed to have converted the whole of said property from realty to personalty. *Marcy, supra*, 142 Va. 285 at 293, 128 S.E. at 553.

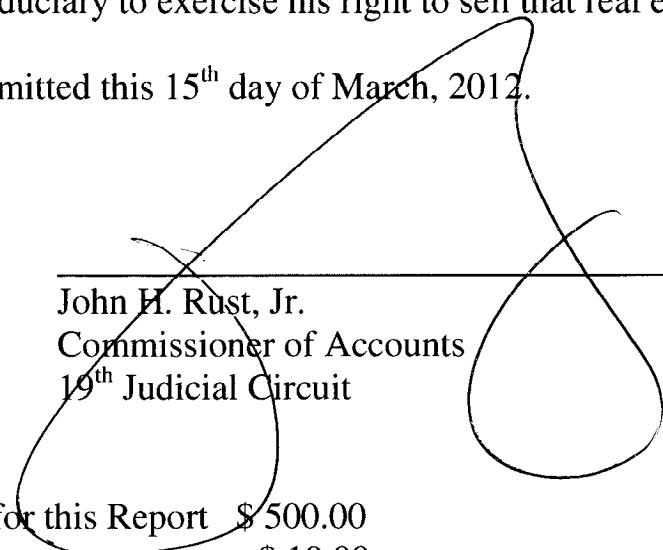
<sup>30</sup> Now VA. CODE ANN. § 64.2-105.

<sup>31</sup> See *Broaddus v. Broaddus*, 144 Va. 727, 742-43, 130 S.E. 794, 799 (1925); *In re Estate of Trent*, 58 Va. Cir. 83, 83-84 (City of Richmond, 2001). See also, e.g. *Estate of Achilli v. Bradley*, 71 Ill.App.3d 474, 389 N.E.2d 644 (1979); *Forster v. First American Bank of Duluth*, 212 Minn. 407, 4 N.W.2d 353 (1942); *Schwertley v. Schwertley*, 228 Iowa 1209, 293 N.W. 445 (1940). Accord, 12B M.J. *Marshalling Assets and Securities* § 24 ("The mere statement in a will of the desire of the testator that his debts be paid is not sufficient to charge his real estate with his indebtedness. In order to so charge, the intention must be clearly expressed. Because the common law afforded little protection to the creditor

fiduciary duty to well and truly administer the estate contained in Virginia Code § 64.2-514, including the duty to pay the debts of the decedent.<sup>32</sup> In the opinion of your commissioner, an equitable conversion is not favored in the law and the use of standard form provisions in one's will should not create a result disfavored in the law. Therefore, your commissioner finds that the power of sale granted in the decedent's will is a discretionary naked power of sale.

Based upon such finding, the fiduciaries in this case may decline to exercise the power of sale in the will and the character of the 30.88 acres in King George County will remain real estate. The fiduciaries cannot be compelled to exercise the power of sale. The creditors may seek recourse against the real estate pursuant to Virginia Code § 64.2-532; however they may not require the fiduciary to exercise his right to sell that real estate.

Respectfully submitted this 15<sup>th</sup> day of March, 2012.

  
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John H. Rust, Jr.  
Commissioner of Accounts  
19<sup>th</sup> Judicial Circuit

Commissioner's Fee for this Report	\$ 500.00	
<u>Publication costs</u>	<u>\$ 10.00</u>	
Total Amount Due	\$ 510.00	UNPAID

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in his effort to subject the land of his deceased debtor to the payment of his claim, courts were quick to seize on any words in the will which even by implication might be construed as an intention on the part of the testator to charge his real estate. However, with the enactment of statutes making the real estate liable for debts, the necessity of strained construction ended, and courts now require that the intention to so charge debts be clearly expressed.”)

<sup>32</sup> See *Denny v. Searles*, 150 VA. 701, 143 S.E. 484 (1928); *Crawford v. Shower*, 70 Va. (29 Gratt.) 69 (1877); *May v. Bentley*, 8 Va. (4 Call) 528 (1800); *Gaymon v. Gaymon*, 63 Va. Cir. 264 (Fairfax County 2003).

## CERTIFICATE OF MAILING

I hereby certify that on this 15<sup>th</sup> day of March, 2012, 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:

Patrick T. Finley  
88 Rapidan Church Lane  
Madison, Virginia 22727

Timothy Finley  
104 Gold Cup Ct.  
Magnolia, Delaware 19962

Navy Federal Credit Union  
820 Rollin Lane  
Vienna, Virginia 22180

Inova Home Health  
5101 Backlick Rd.  
Annandale, Virginia 22003

Inova Home Health  
c/o Complete Coll. Srvs. Inc.  
P.O. Box 10052  
Alexandria, Virginia 22310

Fairfax Radiological Consul. PC  
c/o Nationwide Credit Corp.  
P.O. Box 9156  
Alexandria, Virginia 22304

Fairfax Radiological Consul. PC  
2722 Merrilee Drive, Ste. 230  
Fairfax, Virginia 22031

Roberts Home Medical, Inc.  
8100 Gate House Rd.  
Falls Church, Virginia 22042

Roberts Home Medical, Inc.  
c/o NCO Financial Systems, Inc.  
P.O. Box 15630, Dept. 02  
Wilmington, DE 19850

Juno  
c/o United Online Collection Div  
P.O. Box 5006-BD  
Woodland Hills, CA 91365-9637

Bank of America, NA  
c/o Associated Recovery Sys.  
P.O. Box 463023  
Escondido, CA 92046-3023

DirecTV  
c/o CBE Group  
1309 Technology Pkwy  
Cedar Falls, IA 50613

The DirecTV Group, Inc.  
c/o CSC  
Bank of America Center, 16<sup>th</sup> Fl  
1111 East Main St.  
Richmond, Virginia 23219

Sprint  
P.O. Box 7951  
Shawnee Mission, KS 66207

Sprint  
c/o NCO Financial Systems, Inc.  
P.O. Box 15630, Dept. 02  
Wilmington, DE 19850

Sprint  
c/o West Asset Mgmt., Inc.  
P.O. Box 790113  
St. Louis, Missouri 63179-0113

American Express  
P.O. Box 981540  
El Paso, TX 79998-1540

American Express  
c/o West Asset Mgmt., Inc.  
P.O. Box 956842  
St. Louis, Missouri 63179-0113

Fairfax County  
Department of Tax Admin.  
P.O. Box 10202  
Fairfax, Virginia 22035-0202

Virginia Dept. of Taxation  
Office of Compliance  
P.O. Box 27407  
Richmond, Virginia 23261-7407

United States Treasury  
Internal Revenue Service  
P.O. Box 970011  
St. Louis, Missouri 63197-0011

Virginia Dept. of Taxation  
Office of Compliance  
P.O. Box 27407  
Richmond, Virginia 23261-7407

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John H. Rust, Jr.  
Commissioner of Accounts  
19<sup>th</sup> Judicial Circuit

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 10 days, and that no exceptions have been filed thereto and the same is now recorded pursuant to the provisions of §§64.2-122 & 64.2-1214 of the 1950 Code of Virginia, as amended.  
Teste: JOHN T. FREY, Clerk

4/1/13  
Date

By: [Signature]  
Deputy Clerk