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IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

In Re: Hany Aziz Iskandar, Deceased
Fiduciary Number FI-2005-0075049

Commissioner's Report
of Debts and Demands

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

At the request of Lorenzo L. Bean, attorney for the above referenced estate, the undersigned gave the notice required under Virginia Code § 64.1-171, setting the June 25, 2009, at 10:00 a.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 Hany Aziz Iskandar. At the said time and place, Lorenzo L. Bean appeared on behalf of the estate. Judith A. Iskandar, former wife of the decedent and a claimant, appeared to substantiate her claims against the estate. Stephen W. Armstrong and Buddy W. Rasnake appeared to substantiate Rasnake's claim against the estate. No other person appeared to offer proof of any debts or demands against said estate.

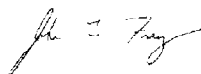
Seven creditors filed nine claims against the estate with your commissioner in the following amounts:

Bank of America, NA (USA)	\$ 7,828.06
Citicorp Credit Services	\$ 2,018.84
Citicorp Credit Services	\$ 2,430.21
Citicorp Credit Services	\$ 4,815.07
Judith A. Iskandar	\$ 8,000.00
MBNA America	\$ 6,195.24
May Department Stores Co.	\$ 2,306.10
Newgate Homeowners Association	\$ 3,226.19
Rasnake Insurance Agency	\$ 210.88

The undersigned provided notice of the hearing to each of the claimants, a copy of which is attached hereto as Exhibit 1. The estate did not provide notice of the hearing to the above claimants. The Virginia Code requires such notice to the holder of any disputed claim. The estate does not dispute

Fiduciary # FI-2005-0075049
Date 10/21/2009
Estate: ISKANDAR, HANY AZIZ
Recorded in
FAIRFAX COUNTY CIRCUIT COURT
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the claims against the estate; therefore, such notice is not statutorily required and the claims are allowed. The estate is aware of no additional claimants.

Judith A. Iskandar, the decedent's former spouse, provided your commissioner with a copy of the decedent's decree of divorce, entered in the Circuit Court of Fairfax County, In Chancery No. 162227. The decree directs that the decedent should pay to Ms. Iskandar the amount of \$700.00, per month for the support and maintenance of their minor child Noel. The decree of divorce further provides that the support obligation as it becomes due and unpaid creates a judgment against the obligor by operation of law. Ms. Iskandar testified that the decedent owes her \$8,000.00 in support arrearages.

The estate is insolvent and unable to fully pay all claims against the estate. Virginia Code § 64.1-157 establishes priorities for the payment of claims in an insolvent estate; however, Virginia Code § 64.1-159 provides that the priorities established under Virginia Code § 64.1-157 shall not affect any lien acquired in the lifetime of the decedent. Therefore, this case involves a threshold issue of whether Judith A. Iskandar's judgment for child support constitutes a lien upon the property of the decedent acquired during his lifetime. If so, the judgment will be afforded priority over other claims according to statute.¹ In the absence of a lien securing such judgment which attached to the decedent's property during his life or a statute granting a judgment creditor priority in the payment of debts, a judgment creditor is afforded no priority in the payment of a decedent's debts.²

Your commissioner is satisfied that the claimant possesses a judgment against the decedent to the extent that the decedent failed to pay child support to her for the care of their child; however, your commissioner is of the opinion that such judgment did not create a judgment lien necessary to give priority to the claim of Judith A. Iskandar. Judgment liens normally arise when the clerk of the court docket the judgment in the judgment lien docket book and issues an execution thereon. VA. CODE ANN. § 8.01-440. Judgments for support entered in domestic relations cases are no different. Pursuant to Virginia Code § 8.01-460, support decrees shall give rise to judgment liens "when duly docketed in the manner prescribed for the docketing of other judgments for money; however, no such decree, order or

¹ See, *King v. King*, 1997 WL 1070419 (Spotsylvania Cir. Ct. 1997).

² See generally, 31 AM. JUR. 2d *Executors and Administrators* § 670; *In re Estate of Thomas*, 116 Nev. 492, 998 P.2d 560 (2000); *Matter of Estate of Mathison*, 468 N.W.2d 400 (Sup. Ct. S.D. 1991).

judgment for support and maintenance or for a monetary award in accordance with § 20-107.3 shall be docketed unless so ordered by the court in such decree, order or judgment.” Thus, absent an express order of the court, no support judgment gives rise to a judgment lien. In the instant case, the decree of divorce does not order the docketing of the support judgment. Moreover, a review of the judgment lien docket maintained by the clerk of this Court shows no judgment lien in favor of Judith A. Iskandar or against Hany Aziz Iskandar. The claimant submitted no evidence to your commissioner that the claimant sought any writ of execution upon said judgment nor that such judgment gave rise to any lien during the decedent’s life against his property, real or personal. Therefore, your commissioner is of the opinion that while Ms. Iskandar possesses a valid judgment against the decedent for unpaid child support, she does not hold an enforceable lien against the property of the decedent within the meaning of Virginia Code § 64.1-159. Based upon the foregoing, your commissioner is of the opinion that the claim of Judith A. Iskandar in the amount of \$8,000.00 should be treated as a priority 9 claim against the estate.

The estate reports that the estate incurred \$15,650.00 in attorney’s fees which have been paid to Lorenzo Lee Bean, III. While such fees consumed a majority of the estate’s assets, your commissioner finds that the estate involved complex issues of law and novel problems rarely encountered in estate administration. Therefore, your commissioner is of the opinion that the attorney’s fees should be allowed as an administrative expense of the estate.

As the estate is insolvent, its assets should be distributed pursuant to Virginia Code § 64.1-157. The claim of Rasnake Insurance Agency is for amounts due for the administrator’s bond and should be treated as an administrative expense of the estate. The estate should first satisfy the claim by Ransake Insurance Agency and all other administrative expenses of the estate as priority 1 claims against the estate. All other claims are to be treated as priority 9 claims and should be satisfied at their pro rata share of the balance of the estate.

Your commissioner observes in the First Account that the fiduciary submitted, which your commissioner has not yet approved, the administrator made two disbursements to BMW Financial in the aggregate amount of \$896.38. No BMW vehicle was reported on the inventory as an asset of the estate. Counsel for the estate reports to your commissioner that at the time

he made payments to BMW Financial, he was aware that the decedent had a lease to own contract with BMW Financial for a motor vehicle but that it was in the possession of a friend of the decedent. Counsel for the estate further explains that he made the payments to preserve the motor vehicle from repossession until such time as he could gain control of the vehicle and determine what equity, if any, the decedent had in the same. When the estate did gain possession, it was discovered that the decedent had no equity in the vehicle and that BMW financial would have a significant claim against the estate. Your commissioner finds that counsel successfully negotiated the return of the motor vehicle to BMW Financial and the release of the estate from the obligation of further payment. To the extent that BMW Financial was a claimant against the estate, its claim would be afforded priority 9 status, reducing distribution to other claimants. While such payments were not made to preserve assets of the estate, the payments did allow the negotiation of a debt reduction favorable to the other creditors of the estate. Moreover, the administrator made such payments to BMW Financial prior to any determination that the estate might be insolvent. In light of the unusual circumstances in this case, your commissioner finds that both payments to BMW financial were administrative expenses of the estate, intended to preserve the assets of the estate for its other creditors. Your commissioner will not require the administrator to reimburse the estate for such payments.

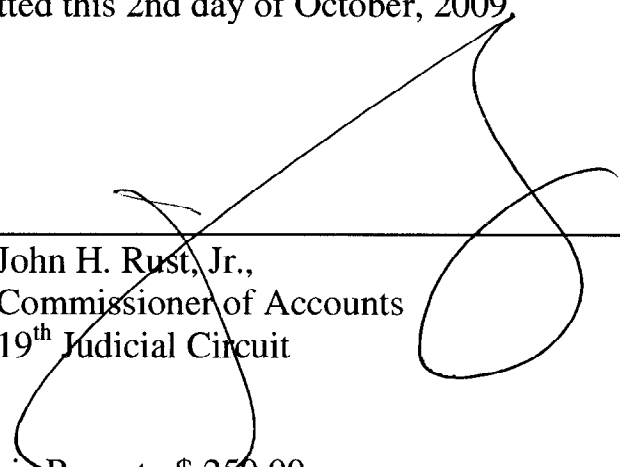
In addition, the estate reported in a Proposed Final Account a proposed distribution to a child of the decedent of the decedent's personal computer valued at \$250 in the inventory. In Virginia, the personal property of a decedent is available for the payment of the debts of his estate.³ When an administrator distributes the personal estate of a decedent prior to the statutory period of time allowed for creditors to make demands against the estate, the administrator does so with the risk of personal liability to such creditors.⁴ In the instant case, the computer had a reported value of \$250 in 2005. In light of current technological advances, it has little, if any, resale value in 2009. Moreover, it likely contains data important to the family and useless to the general public. In many estates, your commissioner approves the discarding of such assets rather than requiring a futile attempt to sell the same. Absent objection from a creditor of the estate to your commissioner

³ *Bliss v. Spencer*, 99 S.E. 593, 125 Va. 36 (1919).

⁴ *Id.*

within fifteen days of the filing of this report, your commissioner will approve distribution of the personal computer to a child of the decedent.

Respectfully submitted this 2nd day of October, 2009,



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

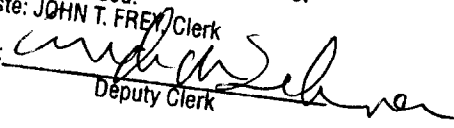
Commissioner's Fee for this Report	\$ 250.00	
Publication costs	\$ 10.00	
<u>Total Amount Due</u>	<u>\$ 260.00</u>	- UNPAID

cc: Noel Hany Iskandar, Administrator
Lorenzo L. Bean, III, Esquire
Bank of America, NA (USA)
Citicorp Credit Services
Judith A. Iskandar
MBNA America
May Department Stores Co.
Newgate Homeowners Association
Rasnake Insurance Agency

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

10/21/09
Date

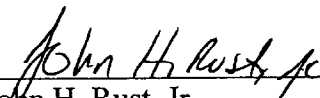
By: 
Deputy Clerk

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

IN RE: Estate of Hany Aziz Iskander,)
Deceased) NOTICE
Fiduciary No. FI-2005-0075049)

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 25th day of June, 2009, at 10:00 A.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 Hany Aziz Iskander, at the request of Lorenzo L. Bean, III, Attorney for said estate.

Given under my hand as Commissioner of Accounts this 27th day of May, 2009.



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

JHRJ:tlw

Ex. 1