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IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

In Re: Estate of Michael Randolph McAboy,
Deceased
Fiduciary No. FI-2009-0000984

Commissioner's Report
of Debts and Demands

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

At the request of Deanna Tubandt, Administrator, c.t.a., for the above estate, the undersigned gave the notice required by Virginia Code § 64.1-171, setting the 15th day of March, 2010 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 Michael Randolph McAboy. At the said time and place said Deanna Tubandt appeared on behalf of the estate. Elizabeth Crego appeared on behalf of the Council of Co-Owners of The Colonies Condominium to substantiate the condominium's claim against the estate. David and Bette Reynolds, creditors of the estate, appeared to substantiate their claims against the estate. No other person appeared to offer proof of any debts or demands against said estate.

The undersigned posted notice of the hearing at the courthouse and published it in the Washington Times. A copy of said notice is attached hereto as Exhibit 1. The estate provided notice of the hearing to all known claimants, a copy of which is attached hereto as Exhibit 2.

The Council of Co-Owners of The Colonies Condominium filed a claim with your commissioner on March 4, 2010 in the amount of \$8,361.60. Your commissioner was unable to provide the claimant with notice of the hearing due to the short time from receipt of the claim until the hearing; however, the estate provided the claimant with notice of the hearing. Notwithstanding the inability of your commissioner to give notice to the claimant directly, counsel for the claimant appeared at the hearing to offer proof of its claim.

The Council of Co-Owners of The Colonies Condominium provided your commissioner with a copy of a default judgment it obtained against the decedent in the Fairfax County General District Court on December 10, 2008. The claimant filed its suit against the decedent on October 23, 2008; however, the decedent died on March 3, 2008 seven months prior to the filing of the suit. In the opinion of your commissioner, the judgment is void.



Judgments without personal service of process, or with service of process in a manner not authorized by law, are void judgments. Virginia Code § 8.01-428; *Garritty v. Virginia Dept. of Social Services*, 396 S.E.2d 150, 151 (Va.Ct.App.1990); *Khatchi v. Landmark Restaurant Assoc. Inc.*, 375 S.E.2d 743 (Va.1989). It is well-settled that a judgment that is void *ab initio* “may be ‘impeached directly or collaterally by all persons, anywhere, at any time, or in any manner.’” *Singh v. Mooney*, 261 Va. 48, 52, 541 S.E.2d 549, 551 (2001) (quoting *Barnes v. American Fertilizer Co.*, 144 Va. 692, 705, 130 S.E. 902, 906 (1925) (emphasis added)); see also *Hicks v. Mellis*, 275 Va. 213, 219, 657 S.E.2d 142, 145 (2008); *Collins v. Shepherd*, 274 Va. 390, 402, 649 S.E.2d 672, 678 (2007). Your commissioner gave the claimant an opportunity to address whether the judgment was proper. The claimant did not address the issue of the validity of the judgment. Based upon the foregoing, it is the opinion of your commissioner that the claim is not entitled to priority against the estate as a judgment claim.

Virginia law vests title to a decedent’s real estate in the decedent’s heirs at law immediately upon the decedent’s death. See *Broaddus v. Broaddus*, 144 Va. 727, 130 S.E. 794 (1925). In the instant case, the claimant testified before your commissioner that the lien for condominium assessments arose after the decedent's death, with the first delinquency occurring in March 2008, the month in which the decedent died. The condominium maintains it has a valid claim against the estate notwithstanding that the claim arose after the date of death, based upon its documents, which permit it to claim a lien for unpaid assessments against the record owner of the property. Your commissioner disagrees. The record owners of the property at the time the assessment deficiency arose were the decedent’s heirs, not the decedent or his estate. See *Broaddus, supra*. The operative event transferring title is death and the law does not require notice to the condominium association as a condition of the passing of ownership. Therefore, your commissioner finds the Council of Co-Owners of The Colonies Condominium does not have a claim against the estate for unpaid assessments and denies the claim in its entirety.

David and Bette Reynolds appeared at the hearing and submitted a claim against the estate in the amount of \$7,104.20 for reimbursement of the decedent’s funeral bills and veterinarian bills for the decedent’s dog, both of which the Reynolds paid personally. The Reynolds submitted proof of payment to Murphy Funeral Homes in the amount of \$4,469.20 for the decedent’s funeral expenses. Your commissioner finds the funeral expenses

to be a reasonable debt of the decedent's estate and therefore finds the claim of \$4,469.20 to be a valid claim against the estate. In the event that the estate is insolvent, such claim would be entitled to priority as a Priority 3 claim to the extent of \$3,500. The remainder would be a Priority 9 claim.

Mr. and Mrs. Reynolds testified that the decedent's death was caused by a fire inside his condominium. At the time of the incident, the decedent's dog was inside the condominium and was severely injured. Mr. and Mrs. Reynolds authorized the Hope Center to perform veterinarian services to save the dog. The dog died after three days of veterinary care. The Reynolds submitted proof of payment to the Hope Center in the amount of \$2,635.00 for the veterinary services during those three days. While the amount of the claim is significant, your commissioner is of the opinion, based upon the testimony of the Reynolds' as to the decedent's love and affection for this pet, that the claim is consistent with the intentions of the decedent and was intended to preserve the life of the decedent's pet. The estate does not dispute the Reynolds' claim. In light of the foregoing, your commissioner allows Mr. and Mrs. Reynolds' claim for reimbursement of the veterinary expenses in the amount of \$2,635.00 in full.

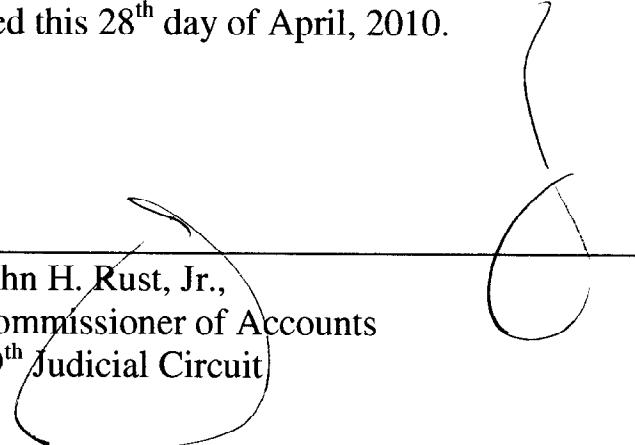
No other creditors filed claims against the estate with your commissioner. The estate provided your commissioner with a list of additional creditors against the estate, a copy of which is attached hereto as Exhibit 3. The estate does not dispute the Fairfax County Fire and Rescue claim, the Commonwealth of Virginia Department of Taxation claim, or the Fairfax County Department of Tax Administration claim. Therefore, your commissioner finds the claims to be valid claims against the estate and each shall be allowed in full. Should the estate be insolvent, then pursuant to the priorities set forth in Virginia Code § 64.1-157, the first \$150 of the Fairfax County Fire and Rescue claim would be entitled to priority as a Priority 5 claim and the remainder would be satisfied as a Priority 9 claim; the Commonwealth of Virginia Department of Taxation claim would be entitled to priority as a Priority 6 claim; and the Fairfax County Department of Tax Administration claim would be entitled to priority as a Priority 8 claim.

The estate disputes all remaining claims listed on Exhibit 3. Ms. Tubandt provided the disputed claimants with notice of the hearing. Ms. Tubandt represented to your commissioner that she tried contacting the disputed claimants to receive additional information regarding the claims against the estate, however, the disputed claimants failed to provide the

fiduciary with additional information regarding their claims. No disputed claimant appeared before your commissioner to present proof of its claim. Therefore, all disputed claims listed on Exhibit 3 are denied in their entirety.

On April 3, 2010, approximately two weeks after the hearing in this matter, your commissioner received a Statement of Claim from Best Practices for its claim of \$578.00 for emergency room physician billing. Best Practices provided no supporting documentation of its statement. Best Practices received notice of the hearing from the estate on or around February 23, 2010, well before the March 15, 2010 hearing date. Best Practices never contacted your commissioner prior to the hearing to request a continuance or other change of date. Best Practices did not appear at the hearing. In the opinion of your commissioner, the claim of Best Practices against the estate was properly handled at the hearing before your commissioner and the subsequent filing of a claim upon the same subject matter with your commissioner does not renew or revive the claim. Therefore, your commissioner confirms his opinion that the claim of Best Practices is denied in its entirety.

Respectfully submitted this 28th day of April, 2010.



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

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

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

5-17-10
Date

By: James J. Brown
Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of April, 2010, 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:

Deanna Tubandt
2281 Valley Ave.
Winchester, VA 22601

Elizabeth Crego
Council of Co-Owners of The
Colonies Condominium
7010 Little River Turnpike, Ste 270
Annandale, VA 22003

David and Bette Reynolds
566 Devils Backbone Overlook
Stephenson, VA 22656

West Asset Management
7171 Mercy Road
Omaha, NE 68106

Bank of America
P.O. Box 26078
Greensboro, NC 27420

Bank of America
P.O. Box 15726
Wilmington, DE 19886

Best Practices
10306 Eaton Place, Suite 180
Fairfax, VA 22030

Capital One
P.O. Box 71083
Charlotte, NC 28272

Chase Card Member Services
P.O. Box 15548
Wilmington, DE 19886

Chase Credit Card
Member Services
P.O. Box 15153
Wilmington, DE 19886

Citi Card Service Center
P.O. Box 6500
Sioux Falls, SD 57117

Commerce Bank of New Jersey
6000 Atrium Way
Mt. Laurel, NJ 08054

Commonwealth of Virginia
Dept. of Taxation
Court Debt Collections Office
P.O. Box 2402
Richmond, VA 23218

Fairfax County Dept. of Tax
Administration
P.O. Box 10200
Fairfax, VA 22035

Fairfax Anesthesiologist
Associates
P.O. Box 100699
Atlanta, GA 30384

Fairfax County Dept. of Tax
Administration
P.O. Box 10202
Fairfax, VA 22035

Fairfax County Fire & Rescue
P.O. Box 630232
Baltimore, MD 21263

Fairfax Pathology Lab Services
P.O. Box 222541
Chantilly, VA 20153

Fairfax Radiological Cons.
Nationwide Credit Corp.
P.O. Box 9156
Alexandria, VA 22304

Forum Credit Company
4150 Olson Memorial Hwy.
Suite 250
Golden Valley, MN 55422

GMAC Mortgage
3451 Hammond Ave.
P.O. Box 780
Waterloo, IA 50704

INOVA Health System
2990 Telestar Ct.
Falls Church, VA 22042

INOVA Juniper Program
8001 Forbes Pl., Ste 200
Springfield, VA 22151

Sallie Mae
P.O. Box 9500
Wilkes-Barre, PA 18773

TD Bank, N.A.
11098 Fairfax Blvd.
Fairfax, VA 22030

Verizon
P.O. Box 9688
Mission Hills, CA 91346

Washington Post
P.O. Box 26089
Richmond, VA 23260

Dominion Virginia Power
P.O. Box 26543
Richmond, VA 23290

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

COMMONWEALTH OF VIRGINIA
CIRCUIT COURT OF FAIRFAX, COUNTY

Court File No. 02009-0000984

Decedent's name:

MICHAEL RANDOLPH MCABOY

RECEIVED
2-25-10

Date of fiduciary's qualification: August 13, 2009 Date of decedent's death: March 3, 2008

NOTICE:

**TO ALL CLAIMANTS FOR DEBTS OWED BY THE ESTATE OF MICHAEL
RANDOLPH MCABOY:**

1. The Commissioner of Accounts has appointed the 15th day of March 2010 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 Michael Randolph McAboy.
2. Claimants have the right to attend and present their case.
3. Claimants have the right to obtain another date if the commissioner of accounts finds the initial date inappropriate
4. Claimants will be bound by any adverse ruling.
5. Claimants have the right to file exceptions with the judge in the event of an adverse ruling.

Dated: February 23, 2010.

/s/ Deanna Tubandt

Deanna Tubandt, Attorney

Administrator CTA

126 Creekside Lane

Winchester, VA 22602

540-450-3328

Deanna@Tubandt.com



Deanna Tubandt, Attorney

126 Creekside Lane, Winchester, Virginia 22602
(540) 450-3328 Phone
Email: Deanna@Tubandt.com

February 23, 2010

John R. Rust
Commissioner of Accounts
10555 Main St., Suite 500
Fairfax, VA 22030

RE: Estate of MICHAEL RANDOLPH MCABOY

Dear Mr. Rust:

Enclosed is the Notice that I sent to all known claimants for the estate. Also attached is the Certificate of Mailing.

Thank you.

Sincerely,



Deanna Tubandt
Attorney

Enc.

COMMONWEALTH OF VIRGINIA
CIRCUIT COURT OF FAIRFAX, COUNTY

Court File No. **02009-0000984**

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Dated: February 23, 2010.

Deanna Tubandt, Attorney
Administrator CTA
126 Creekside Lane
Winchester, VA 22602
540-450-3328
Deanna@Tubandt.com

Decedent's name:

MICHAEL RANDOLPH MCABOY

Certificate of Mailing

The attached Notice was mailed by first class mail, postage prepaid on February 24, 2010 to the following:

1. Washington Post
PO Box 26089
Richmond, VA 23260
2. Verizon
PO Box 9688
Mission Hills, CA 91346-9688

Secondary Notice:

Afni, Inc.
404 Brock Drive
PO Box 3517
Bloomington, IL 61702-3517

CCA
PO Box 439
Norwell, MA 02061-0439

3. Bank of America
PO Box 26078
Greensboro, NC 27420
- Bank of America
PO Box 17295
Wilmington, DE 19850-7295

Secondary Notice:
Bank of America
PO Box 15726
Wilmington, DE 19886-5726

Bank of America
PO Box 21848
Greensboro, NC 27420-1848

Bank of America
PO Box 536214
Atlanta, GA 30353-6214

Creditor's Financial Group
3131 South Vaughn Way Ste 110
Aurora, CO 80014

Bank of America
PO Box 15026
Wilmington, DE 19850-5026

Bank of America
PO Box 21846
Greensboro, NC 27420-1846

4. Best Practices INOVA
10306 Eaton Place
Suite 180
Fairfax, VA 22030

Secondary Notice:
Suburban Credit Corporation
PO Box 30640
Alexandria, VA 22310-0640

5. Capital One
PO Box 71083
Charlotte, NC 28272-1083

Secondary Notice:
Capital One
PO Box 30285
Salt Lake, UT 84130-0285

6. Chase Card Member Services
PO Box 15548
Wilmington, DE 19886-5548

Card Member Services
PO Box 15299
Wilmington, DE 19850-5299

Secondary Notice:

Chase Card Member Services
PO Box 15153
Wilmington, DE 19886-5153

Chase Card Member Services
PO Box 15298
Wilmington, DE 19850-5298

West Asset Management
7171 Mercy Road
Omaha, NE 68106

Phillips & Cohen Associates, LTD
1002 Justison Street
Wilmington, DE 19801

Phillips & Cohen Associates, LTD
258 Chapman Rd. Suite 205
Newark, DE 19702-5444

7. Citi Card Service Center
PO Box 6500
Sioux Falls, SD 57117-6500

8. Commerce Bank of New Jersey

6000 Atrium Way
Mt. Laurel, NJ 08054-3918

Secondary Notice:

Commerce Bank, N.A.
PO Box 2580
Cherry Hill, NJ 08034

9. Commonwealth of Virginia
Dept of Taxation
Court Debt Collections Office
PO Box 2402
Richmond, VA 23218-2402
10. Dominion Virginia Power
PO Box 26543
Richmond, VA 23290-0001

Secondary Notice:

The CBE Group, Inc.
Payment Processing Center
PO Box 2337
Waterloo, IA 50704-2337

The CBE Group, Inc.
131 Tower Park Dr. Ste. 100
Waterloo, IA 50701

11. Fairfax Anestheologist Associates
PO Box 100699
Atlanta, GA 30384-0699
 12. Fairfax County Dept of Tax Administration
PO Box 10202
Fairfax, VA 22035-0202
 13. County of Fairfax
Dept. of Tax Administration
PO Box 10200
Fairfax, VA 22035-0200
 14. Fairfax County Fire & Rescue
PO Box 630232
Baltimore, MD 21263-0232
 15. Fairfax Pathology Lab Services
PO Box 222541
Chantilly, VA 20153-2541
- Fairfax Anestheologist Associates
PO Box 18138
Merrifield, VA 22118-0138

16. Fairfax Radiological Cons
PO Box 3650
Merrifield, VA 221160

Secondary Notice:

Business Revenue Services, Inc.
PO Box 13077
Des Moines, IA 50310-0077

Nationwide Credit Corporation
PO Box 9156
Alexandria, VA 22304-0156

17. Forum Credit Company
4150 Olson Memorial Highway, Suite 250,
Golden Valley, MN 55422-4811
18. GMAC Mortgage
3451 Hammond Ave.
PO Box 780, Waterloo
IA 50704-0780

Secondary Notice:

Samuel I. White
5040 Corporate Woods Drive Suite 120
Virginia Beach, VA 23462

19. INOVA Health System
2990 Telestar Ct.
Falls Church, VA 22042-1207
20. INOVA Fairfax Hospital
PO Box 37019
Baltimore, MD 21297-3019
21. Dave Reynolds
566 Devils Backbone Overlock
Stephenson, VA 22656
22. INOVA Juniper Program
8001 Forbes Pl, Ste 200
Springfield, VA 22151

23. Sallie Mae
PO Box 9500
Wilkes-Barre, PA 18773-9500

24. TD Bank, N.A.,
11098 Fairfax Boulevard
Fairfax, VA 22030

Secondary Notice:

Associated Credit Services
PO Box 9100
Hopkinton, MA 01748-9100

25. The Colonics
7681 Provincial Drive
McLean, VA 22102

Secondary Notice:

Elizabeth M. Crego
Segan, Mason & Mason PC
Suite 270, Annandale Financial Center
7010 Little River Turnpike
Annandale, VA 22003

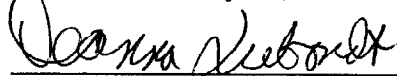
26. DCM Services
4150 Olson Memorial Highway, Suite 200
Minneapolis, MN 55422-4811

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

Secondary Notice:

West Asset Management, Inc.
PO Box 956842
St. Louis, MO 63195

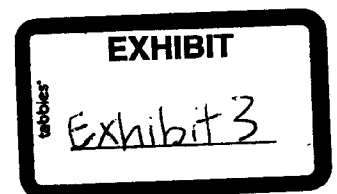
Dated: February 24, 2010.



Deanna Tubandt

Michael Mcaboy Estate

<u>Creditor</u>	<u>Amount</u>	<u>Purpose</u>	<u>Collection Agency</u>
American Express Bank of America PO Box 26078 Greensboro, NC 27420-6078	2,495.00	credit card	West Asset Management, 7171 Mercy Rd. Omaha, NE 68106
Bank of America PO Box 26078, Greensboro, NC 27420	621.09	LOC 1608	Creditors Financial Group, LLC, PO Box 440290, Aurora, CO 80044-0290
Bank of America PO Box 26078, Greensboro, NC 27420	38,097.36	2nd on Condo	
Bank of America, PO Box 15726, Wilmington, DE 19886-5726	49.06	Credit Card 3819	
Best Practices INOVA,	578.00	Final Medical	Suburban Credit Corp PO Box 30640,
Capitol One, PO Box 71083, Charlotte, NC 28272-1083	-	Credit Card	
Chase Card Member Services PO Box 15548 Wilmington, DE 19886-5548	295.85	credit card 2930	



Chase Credit Card 15,801.80 Credit Card 6005 West Asset
Member Services, PO Management, PO Box
Box 15153, 956842, St. Louis, MO
Willmington, DE 63195
19886-5153

ChaseCredit Card 7,113.45 Credit Card 1638 Phillips & Cohen
Member Service, PO Associates, LTD, 1002
Box 15133, Justison Street,
Wilmington, DE 19801
19886-5153

Citi Card Service ?
Center, PO Box 6500
Sioux Falls, SD 57117-
6500

Commerce Bank, 1,319.58 Visa
6000 Atrium Way,
Mt. Laurel, NJ 08054-
3918

Commonwealth of 143.56 ?
Virginia, Dept of ✓
Taxation, Court Debt
Collections Office, PO
Box 2402, Richmond,
VA 23218-2402

Dominion Electric, PO 189.99 utility bill CBE Group, 131 Tower
Box 26543, Park Dr. Suite 100,
Richmond, VA 23290- Waterloo, IA 50701
0001

Fairfax 390.00 Final Illness
Anestheologist
Associates, PO Box
100699, Atlanta, GA
30384-0699

Fairfax County Dept, ✓ 267.90 03Toyota Tax
of Tax Administration
PO Box 10202,
Fairfax, VA 22035-
0202

Fairfax County Dept of Tax Administration, PO Box 10200, Fairfax, VA 22035-0200	2,935.90 real estate tax	
Fairfax County Fire & Rescue, PO Box 630232, Baltimore, MD 21263-0232	452.50 Final Illness	
Fairfax Pathology Lab Services, PO Box 222541, Chantilly, VA 20153-2541	74.00 Final Medical	
Fairfax Radiological Cons, PO Box 3650, Merrifield, VA 221160	45.00 Last Illness	Nationwide Credit Corporation, PO Box 9156, Alexandria, VA 22304, 0156
Forum Credit Company 4150 Olson Memorial Highway, Suite 250, Golden Valley, MN 55422- 4811	7,570.17 Assignee for Washington Mutual	DCM Services 4150 Olson Memorial Highway, Suite 2000, Minneapolis, MN 55422-4811
GMAC Mortgage, 3451 Hammond Ave., PO Box 780, Waterloo, IA 50704- 0780	285,000.00 1st DOT	
INOVA Health System, 2990 Telestar Ct., Falls Church, VA 22042- 1207	4,693.94 Final Medical	

INOVA Juniper Program, 8001 Forbes Pl, Ste 200, Springfield, VA 22151	216.00	Prior Medical	
Sallie Mae PO Box 9500, Wilkes-Barre, PA 18773-9500	7,890.00		
TD Bank, N.A.,	1,318.95		Associated Credit Services, Inc. 105B South St. PO Box 9100, Hopkinton, MA 01748- 9100
The Colonies 7681 Provincial Drive, McLean, VA 22102	5,553.30	Condo Dues	Sagan, Mason, & Mason, PC, Suite 270, Annandale Financial Center, 7010 Little River Turnpike, VA 22003
Verizon PO Box 9688 Mission Hills, CA 91346-9688	222.09	FIOS	
Washington Post PO Box 26089 Richmond, VA 23260	51.31	Subscription	