

**SPECIAL SESSION
JEFFERSON COUNTY COMMISSION
THURSDAY SEPTEMBER 12, 2013
9:00 A. M.**

County Commission Meeting Room
located at the Old Charles Town Library
200 E. Washington Street, Charles Town, WV

**SPECIAL SESSION OF THE COUNTY COMMISSION OF
JEFFERSON COUNTY TO CONDUCT HEARINGS IN REGARD TO PROBATE
MATTERS**

The County Commission of Jefferson County, will hold a Special Session on Thursday, September 12, 2013, at 9:00 a.m. in the Old Charles Town Library Meeting Room located at 200 E. Washington Street, (Samuel Street Entrance) Charles Town, West Virginia 25414.

The purpose of the Special Session is to conduct hearings in regard to probate matters.

1. 9:00 a.m. Call to order
Pledge of Allegiance
2. 9:05 a. m. Estate of William E. Dunn, Petition to Deny Fiduciary
Commissioner, D. Frank Hill, III, Order to Deny Claim of
Kathy Warden - Discussion/Action
3. 9:25 a. m. Estate of Lester Pete Snider, Petition to Probate in Solemn
Form - Discussion/Action
4. 9:45 a.m. Break
5. 10:00 a.m. Estate of Elva Nellie Crawford, Petition to Remove Co-
Personal Representative of the Estate of Elva Nellie
Crawford - Discussion/Action
6. Adjourn

At all times the County Commission reserves the right to rearrange agenda times because of time constraints and to accommodate the Commission schedule or the public.

Name: Lynn Fields

Department: Probate

Estimation of amount of time needed for appointment: 2hours +

Subject:

(1) Estate of William E. Dunn, PETITION TO DENY FIDUCIARY COMMISSIONER, D. FRANK HILL, III, ORDER TO DENY CLAIM OF KATHY WARDEN

Description: Kathy Warden filed a claim for \$96K with the probate office against the estate of William E. Dunn for care she provided up until the end of his life. The claim was referred to D. Frank Hill, III when it was denied by the Executor, Donna Smoot. At a subsequent hearing, the claim was further denied by D. Frank Hill, III. Ms. Warden is appearing before the commission to request they overrule Mr. Hill's ruling and demand the estate pay the claim.

Recommendation: The probate office has no recommendation to offer. We defer to the ruling of the commission on this matter.

DOCUMENTS ENCLOSED

(2) Estate of Lester Pete Snider, PETITION TO PROBATE IN SOLEMN FORM

Description: The Executrix for the estate of Lester Pete Snider is only able to find a copy of the Last Will and Testament. The Executrix is requesting the commission grant permission for her to probate the will in solemn form and admit the copy of the will to record.

Recommendation: The probate office sees no reason why the copy of the will cannot be admitted to record. Mrs. Bennett has done due diligence to attempt to find the original will and to notify all interested parties and potential heirs at law.

DOCUMENTS ENCLOSED

(3) Estate of Elva Nellie Crawford, PETITION TO REMOVE CO-PERSONAL REPRESENTATIVE OF THE ESTATE OF ELVA NELLIE CRAWFORD

Description: The three children of the deceased were previously qualified as co-executors of the estate. They have appeared before the commission before for a dispute regarding the selling of the real estate of the estate. Two of the co executors have been unable to reach a compromise or agreement with the third co-executor regarding the fair market value of the real estate. The two co-executors are requesting that the third co-executor be removed from his duties because he is wasting the assets of the estate and prohibiting them from selling the property and bringing the estate to a close.

Recommendation: The probate office has no recommendation to offer. We defer to the ruling of the commission in this matter.

DOCUMENTS ENCLOSED

No projector is needed

Contact information:

**Lynn Fields
(304) 728-3210
lfields@jeffersoncountywv.org**



Jennifer S. Maghan
County Clerk

Jefferson County Clerk's Office Probate

#1

NOTICE OF HEARING

Ms. Kathy D. Warden
401 Burns Street
Ranson, WV 25438

RE: Estate of William E. Dunn, deceased

Demand having been made for a hearing concerning the above-referenced estate by a Petition presented to the County Commission of Jefferson County, a hearing has been scheduled for **Thursday, September 12th, 2013 at 9 a.m.** to be held at the Jefferson County Commission Room in the basement of the Charles Town Library. If you are unable to attend this hearing, you are advised to contact the probate office as soon as possible.

Sincerely,

S. Lynn Fields
Deputy Probate Clerk

Karen Olden, Deputy Clerk: 304.728.3230 or kolden@jeffersoncountywv.org
S. Lynn Fields, Deputy Clerk: 304.728.3210 or lfields@jeffersoncountywv.org
Address: 100 East Washington Street, PO Box 208, Charles Town WV 25414
Fax: 304.728.1957 **Web Site:** www.jeffersoncountyclerkwv.com

D. FRANK HILL, III
ATTORNEY AT LAW
Post Office Box A
SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & MD BAR)

136 E. GERMAN STREET
THE PHARMACY BUILDING
(304) 876-9333

December 3, 2012

Ms. Donna Smoot
244 Marie Drive
Charles Town, WV 25414

Ms. Kathy D. Warden
89 Boxwood Lane
Charles Town, WV 25414

Re: Estate of William E. Dunn, deceased

Dear Ms. Smoot and Ms. Warden:

The Jefferson County Clerk has forwarded to me for adjudication a Claim filed by Kathy D. Warden against the above-captioned Estate in the amount of \$96,000.00 which I presume has not been settled by the Estate nor withdrawn by the Claimant.

To resolve this Claim, it will be required that I conduct an evidentiary hearing at which both of you should attend in prosecution of the Claim and in defense of the Claim.

Ms. Warden, as the Claim was filed by you, you will be required to post a bond with me in the amount of \$800.00 in the form of a check payable to me which I will hold pending resolution of the Claim. This check should be sent to me within ten (10) days of this date using my mailing address of P.O. Box A, Shepherdstown, WV 25443.

If the Claim is sustained in favor of Ms. Warden, all or a portion of the bond will be refunded to her and I will assess the cost of the hearing against the Estate to be paid from its assets. Alternatively, should the Claim be denied, the cost of the hearing will be charged against the bond with the balance, if any, refunded to Ms. Warden.

COPY

Both parties should know that the burden of proof to sustain the Claim rests squarely upon the Claimant, Kathy D. Warden, and at the hearing Ms. Warden should be prepared to submit any documents or testimony from other persons in support of the Claim.

In view of the nature of this proceeding, I suggest that both of you may well want to retain the services of an attorney to represent your interests in this matter.

It will not be until the latter part of January before I am able to schedule this matter for hearing. In this regard I would ask that both of you call my office before the end of this month to let me know if you have any scheduling conflicts with this time period after which I will establish a precise date and time for the hearing and will notify you of such in writing.

Unless waived by each of you, the hearing will be conducted before a court reporter for which a transcript may be had upon payment by you as you might require. The fee for the court reporter's attendance will be included within the aforementioned bond.

Sincerely,



D. Frank Hill, III
Fiduciary Commissioner

cc: Jefferson County Probate Office

JOHN C. SKINNER, JR.
STEPHEN G. SKINNER (DC, NY & WV)
ANDREW C. SKINNER (IL & WV)
LAURA C. DAVIS



115 EAST WASHINGTON STREET
PO BOX 487
CHARLES TOWN, WV 25414-0487
(304) 725-7029/Fax (304) 725-4082

WRITER'S EMAIL:
askinner@skinnerfirm.com

January 10, 2013

Ms. Lynn Fields
Probate Office
Jefferson County Commission
Jefferson County Courthouse
Charles Town, West Virginia 25414
HAND DELIVERED

RE: Estate of William Ellard Dunn, Deceased

Dear Ms. Fields:

Attached is the Affidavit of Donna Smoot, as fiduciary of the Estate of William Ellard Dunn, Deceased, denying the claim filed by Kathy D. Warden.

Also attached is my Notice of Appearance as attorney for the estate.

Very truly yours,

SKINNER LAW FIRM

Andrew C. Skinner

ACS/dmc

Attachments

cc: D. Frank Hill, III, Fiduciary Commissioner (with copy of Affidavit and Notice of Appearance)
Ms. Donna Smoot (with copy of Affidavit and Notice of Appearance)
Ms. Kathy D. Warden (with copy of Affidavit and Notice of Appearance)

IN THE COUNTY COMMISSION
OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: Estate of William Ellard Dunn, Deceased

**Counter-Affidavit of Donna Smoot, Personal Representative of the Estate of
William Ellard Dunn, Denying Claim of Kathy D. Warden**

Personally appeared before me, the undersigned authority in and for the
County and State aforesaid, DONNA SMOOT, who, being by me first duly sworn,
says:

1. That she is the Personal Representative of the Estate of William Ellard
Dunn, deceased.
2. That the said William Ellard Dunn died July 17, 2012, a resident of
Jefferson County, West Virginia.
3. That the Estate of William Ellard Dunn, deceased, is not indebted to
the said claimant for the sum of \$96,000.00, plus interest accruing, as sworn to by
Kathy D. Warden in an affidavit filed by her with Jennifer S. Maghan, Clerk of the
County Commission of Jefferson County, West Virginia, and the same is hereby
denied because any services provided to William Ellard Dunn by Kathy D.
Warden were done because she was the step-daughter of William Ellard Dunn and
thus are deemed gratuitous.

Dated this 4 day of January, 2013.



Donna Smoot, Personal Representative
of the Estate of William Ellard Dunn, Deceased

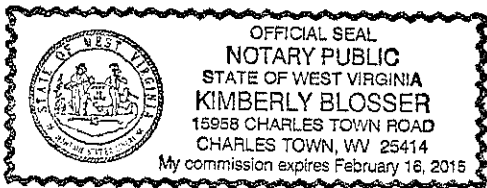
STATE OF WEST VIRGINIA
COUNTY OF JEFFERSON, to-wit:

Taken, sworn and subscribed to before me this 4th day of January,
2013, by DONNA SMOOT.

My commission expires February 16, 2015.

Kimberly Blosser
Notary Public

AFFIX NOTARIAL SEAL



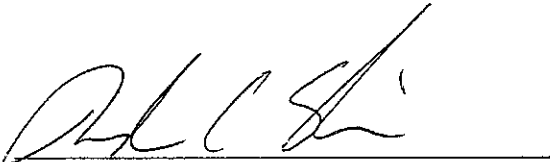
IN THE COUNTY COMMISSION
OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: Estate of William Ellard Dunn, Deceased

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that I, Andrew C. Skinner, West Virginia State Bar I. D. No. 9314, of the Skinner Law Firm, do hereby enter my appearance on behalf of Donna Smoot, fiduciary of the Estate of William Ellard Dunn and the Estate of William Ellard Dunn, Deceased.

**DONNA SMOOT, FIDUCIARY OF
THE ESTATE OF WILLIAM
ELLARD DUNN, DECEASED, AND
THE ESTATE OF WILLIAM
ELLARD DUNN, DECEASED**
BY COUNSEL



Andrew C. Skinner
W.Va. State Bar I.D. 9314
SKINNER LAW FIRM
Counsel for the Fiduciary of and for the
Estate of William Ellard Dunn, Deceased
P. O. Box 487
Charles Town, West Virginia 25414
304-725-7029

**IN THE COUNTY COMMISSION
OF JEFFERSON COUNTY, WEST VIRGINIA**


IN RE: Estate of William Ellard Dunn, Deceased

CERTIFICATE OF SERVICE

I, Andrew C. Skinner, of the Skinner Law Firm, counsel for Donna Smoot, Fiduciary of the Estate of William Ellard Dunn, Deceased, and for the Estate of William Ellard Dunn, Deceased, hereby certify that I served a true copy of the foregoing **NOTICE OF APPEARANCE** upon the following named persons by mailing a true copy thereof to them at their respective addresses on the 10th day of January, 2013:

Kathy D. Warden, *Claimant*
89 Boxwood Lane
Charles Town, West Virginia 25414

D. Frank Hill, III, *Fiduciary Commissioner*
P. O. Box A
Shepherdstown, West Virginia 25443



Andrew C. Skinner

D. FRANK HILL, III

ATTORNEY AT LAW

Post Office Box A

SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & MD BAR)

136 E. GERMAN STREET

IN THE PHARMACY BUILDING

(304) 876-9333

March 15, 2013

Ms. Kathy D. Warden
89 Boxwood Lane
Charles Town, WV 25414

Andrew C. Skinner, Esq.
Skinner Law Firm
P.O. Box 487
Charles Town, WV 25414


Re: Estate of William E. Dunn, deceased
Claim of Kathy D. Warden

Dear Ms. Warden and Mr. Skinner:

By this letter you are notified that I will conduct an evidentiary hearing on this Claim on Thursday, April 18, 2013, at 9:00 a.m., to be held at my office at the address shown above.

Unless I receive a request from either party that a court reporter be present (the cost of which will be assessed against the non-prevailing party), the hearing will be conducted without a court reporter. If a court reporter is desired, your request is to be sent to me in writing within ten days of this date.

Sincerely,


D. Frank Hill, III
Fiduciary Commissioner

cc: Jefferson County Probate Office

COPY

D. FRANK HILL, III
ATTORNEY AT LAW
POST OFFICE BOX A
SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & MD BAR)

136 E. GERMAN STREET
THE PHARMACY BUILDING
(304) 876-9333

July 8, 2013

Clerk of the County Commission
P.O. Box 208
Charles Town, WV 25414

Attn: Probate Office (Karen/Lynn)

Re: Estate of William E. Dunn, deceased
Claim filed by Kathy D. Warden

Dear Madam Clerk:

In connection with the above-captioned Estate, I have enclosed my Report Of Fiduciary Commissioner with respect to the Claim filed by Kathy D. Warden, a copy of which was mailed today to the parties shown below as appearing within the annexed Certificate Of Service.

The Claim was denied as filed, and presume my Report will be forwarded to the County Commission for its consideration in accordance with your standard procedure.

My time expended to adjudicate this Claim and the cost of the Court Reporter (appearance fee only) exceeded the cash bond of \$800.00 posted by the Claimant by \$306.25. Accordingly, Kathy D. Warden is requested to forward me an additional check in the amount of \$306.25 in satisfaction of this matter, and for her use in doing so I have enclosed a stamped envelope. Otherwise, the bond received from her in the amount of \$800.00 has been disbursed as detailed within the Report.

Sincerely,


D. Frank Hill, III
Fiduciary Commissioner

Enclosure as stated

cc: Andrew C. Skinner (w/copy of Report)
Kathy D. Warden (w/copy of Report)

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

RE: THE ESTATE OF WILLIAM E. DUNN, DECEASED

CLAIM OF KATHY D. WARDEN

REPORT OF FIDUCIARY COMMISSIONER

This Report represents the Fiduciary Commissioner's (the "Commissioner") opinion as to the validity of a Claim filed by Kathy D. Warden (the "Claimant") against the Estate of William E. Dunn, deceased (the "Estate"), and for the reasons set forth herein the Claim is denied, in whole, and in support thereof makes the following findings of fact:

1. William E. Dunn (the "Decedent") died, intestate, a resident of Jefferson County, West Virginia, on July 17, 2012.
2. On July 31, 2012, Donna Smoot, the Decedent's daughter and sole heir-at-law, qualified before the County Clerk as Administratrix (Personal Representative) of the Estate.
3. On October 22, 2012, Kathy D. Warden (the "Claimant") filed a Claim against the Estate in the amount of \$96,000.00 for services she rendered to the Decedent during the seven (7) years preceding his death. The Claimant is the step-daughter of the Decedent.
4. On November 5, 2012, the Administratrix filed a Denial with respect to the Claim requesting that it be denied in whole.

5. The period in which Claims could be filed against the Estate expired on November 27, 2012. Thus, the Claim was timely filed. No other Claims were filed against the Estate.

6. On December 3, 2012, your Commissioner wrote to both Ms. Smoot and Ms. Warden regarding the procedures to be undertaken to resolve the Claim, and requested that Ms. Warden post a (cash) bond in the amount of \$800.00 which was done by a check issued on December 11, 2012, which amount was held by your Commissioner pending adjudication of the Claim.

7. On January 10, 2013, Andrew C. Skinner, counsel for the Estate, filed a Counter-Affidavit denying the Claim on the basis that any services provided to the decedent by the Claimant were done because she was his step-daughter and thus were deemed gratuitous.

8. By a letter to both parties dated March 15, 2013, your Commissioner set an evidentiary hearing for Thursday, April 18, 2013, at 9:00 a.m.

9. On April 8, 2013, your Commissioner sent a letter to Ms. Warden and to Mr. Skinner stating that neither had requested a Court Reporter be present at the hearing, in response to which on April 8th Ms. Warden called and said that she did desire that a Court Reporter be present.

10. Your Commissioner conducted a hearing on April 18, 2013, at which Donna Smoot appeared in person and by her counsel, Andrew C. Skinner, and the Claimant appeared in person and with several witnesses. Also in attendance was Wendi L. Watson, a Court Reporter.

11. Before the hearing commenced, your Commissioner inquired of both Ms. Smoot and Ms. Warden if they still desired that the Court Reporter record the hearing, and after discussion both parties agreed that the hearing would be recorded.

12. At the request of your Commissioner, all witnesses were excluded.

13. Thereafter, the hearing commenced with Ms. Warden testifying in support of her Claim by referring to her 2-page letter, dated October 17, 2012, which was attached to and made a part of her Claim.

14. Upon questioning by Mr. Skinner, the Claimant responded by stating that the decedent was her step-father, that for many years she lived in his home with her mother, that she was "raised" by the decedent, that she lived relatively close to the decedent, that she provided care to the decedent, that she was not employed and was on disability, that everyday for seven (7) years (sometimes twice a day or more) she visited his house to provide him care, that her Claim in the amount of \$96,000.00 was based upon her opinion of the value of what she went through for seven (7) years, and that the services she provided were "because she loved him."

15. Robert L. Dunn next testified that he was the brother of the decedent and that Kathy D. Warden did provide care to his brother, cooked meals, administered shots, etc., during the aforementioned seven (7) year period.

16. Upon questioning by Mr. Skinner, Mr. Dunn testified that he never heard the decedent ask Ms. Warden to provide him with care, that the decedent had said that Ms. Warden was "always there when he needed someone", that Ms. Warden's services to the decedent began during 2005, and that Ms. Warden lived near the decedent.

17. Shirley A. Jenkins next testified that she was a sister of the decedent, that Ms. Warden had provided care to her brother in the form of giving shots, providing meals, taking care of his animals, cleaning his house, providing transportation for medical care, bathed him, etc., that such services were rendered between two and three hours on a daily basis, and that the services began in 2005. Mr. Skinner had no questions for Ms. Jenkins.

18. Sandra Bentley next testified that the decedent was the step-father of Kathy Warden, that she is a half-sister to Kathy Warden, that on numerous occasions she saw Ms. Warden at the decedent's home, that Ms. Warden loved the decedent, and that her care for him began in 2005 and ended on his date of death.

19. Upon questioning by Mr. Skinner, Ms. Bentley testified that the services rendered by Ms. Warden were a result of love and care of her step-father, the decedent.

20. Michelle Chapman next testified that she was a niece of the Claimant, that on many occasions she observed Ms. Warden at the decedent's home providing him care, administering medications, feeding his animals, and that her care for the

decedent started after her grandmother's (the decedent's wife) death through the decedent's date of death. Mr. Skinner did not ask any questions of Ms. Chapman.

21. Casey Warden next testified that he was a former spouse of Kathy Warden, that Ms. Warden went to the decedent's home everyday, gave him shots, provided food, fed his animals, and cleaned his house, and that these services were provided during approximately six and one-half years, on a consistent basis. Mr. Skinner asked no questions of Mr. Warden.

22. The Claimant did not offer any other witnesses.

23. Mr. Skinner called Shawna Hagan Smoot who testified that she was married to a son of the Administratrix, Donna Smoot, and that she lived with the decedent in 2006 and again in 2008-2009, and took care of the decedent's dog.

24. No other witnesses were offered by Mr. Skinner.

26. Mr. Skinner then offered a summary of the position of the Estate in opposition to the Claim by referring to the holdings in Gibson v. McCraw and In Re Thaker (152 W.Va. 455), and by stating that the Claimant produced no evidence of a contract between the decedent and Ms. Warden, that there was a presumption of the care having been provided gratuitously, that there was no explanation provided as to the method or basis for the computation of the Claim submitted by Ms. Warden, and that taken together the Claim should be denied.

27. In response to the foregoing, Ms. Warden stated that she had no written evidence in support of her Claim, but that the decedent had asked for the care and services which she provided.

HOLDING

1. The Claimant was the step-daughter of the Decedent and for an extended period of time they enjoyed a familial relationship.

2. The general rule in West Virginia is that, in the absence of an express contract, services rendered between persons with a familial relationship are presumed to be gratuitous.

3. It is unquestioned and undisputed that for many years the Claimant did provide comprehensive care to her step-father (the Decedent), but no evidence was offered by the Claimant or by any of her witnesses that there was any expectation on her part to be paid by her step-father nor were any such statements made tending to indicate that her step-father understood or agreed that he was obligated to pay the Claimant for services she rendered to him.

4. No promise, written or oral, was made by the Decedent to the Claimant in exchange for services she provided to her step-father.

5. No documentary evidence was offered by the Claimant tending to show an undertaking or an obligation by the Decedent to pay her for any of the services rendered by her to him.

6. The burden of proof for Claims rests upon the person asserting the Claim where personal services are the basis of the Claim.

7. The Claimant did not submit any documentary evidence (letters, notes, correspondence, or a promissory note) signed by the Decedent evidencing his intent, agreement or assent to pay for the services rendered to him by the Claimant.

8. No evidence or testimony in contravention of the foregoing standard was offered by the Claimant, such evidence to have been both clear and convincing.

9. There is a presumption against the validity of a Claim where a familial relationship exists, as was present between the Claimant and the Decedent, and the Claimant clearly failed to overcome this presumption.

10. The case of Gibson v. McCraw, 332 S.E.2d 269, 175 W.Va. 256 (1985), provides substantial guidance for the resolution of this Claim by holding that, in the absence of an express contract, services rendered between persons of a familial relationship are presumed gratuitous, that it is the family relationship of the parties that gives rise of the presumption that services were performed gratuitously, and that, in order to overcome such presumption of gratuity, the Claimant must go beyond showing that the services were rendered, their value, and that no remuneration was received, and that it must also be shown that the recipient expected to pay and the performer expected to receive compensation. Each of these elements are present in this case, and thus the holding of this case controls and dictates the resolution of the Claim filed by Kathy D. Warden.

Accordingly, for the reasons set forth herein, the Claim of Kathy D. Warden against the Estate of William E. Dunn, deceased, is hereby denied, with the cost of this hearing be paid by the Claimant.

COSTS

As a result of the Claimant not prevailing upon her Claim, the entire cost of the hearing is appropriately borne by the Claimant.

A summary of your Commissioner's time expended in this matter is as follows:

Receipt and review of Claim and of Counter-Affidavit;

Correspondence to parties by letters dated December 3, 2012, December 14, 2012, March 15, 2013, April 8, 2013, and April 9, 2013;

Arrange for attendance of Court Reporter;

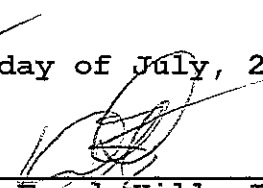
Conduct hearing on April 18, 2013;

Review cases cited by Mr. Skinner;

Prepare, revise and edit Report, and file original with the County Clerk and serve copies on both parties by regular mail.

Services rendered (5.75 hours @ \$175.00 per hour)	\$1,006.25
Wendi L. Watson, Court Reporter, appearance fee	<u>100.00</u>
Total	<u>\$1,106.25</u>
Cost of hearing (from above)	\$1,106.25
Less funds received from Claimant	<u>800.00</u>
Balance owed by Claimant	<u>\$ 306.25</u>

Given under my hand this 8th day of July, 2013.



D. Frank Hill, III
Fiduciary Commissioner
P.O. Box A
Shepherdstown, WV 25443
(304) 876-9333
West Virginia Bar No. 1725

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing
Fiduciary Commissioner's Report were deposited in the United
States mail, first class postage prepaid, this 8th day of July,
2013, addressed as follows:

Kathy D. Warden
401 Burns Street
Ranson, WV 25438

Andrew C. Skinner, Esq.
Skinner Law Firm
P.O. Box 487
Charles Town, WV 25414



D. Frank Hill, III
Fiduciary Commissioner

July 16, 2013

To the Jefferson County Commissioners,

In response to the denial of the claim of Kathy Warden regarding the estate Of William E.Dunn,I do find some information contained in the Report of the Fidiciary Committee to be contradictory of the witness testimony which was taken under oath by the Jefferson County Court Reporter,Wendy Watson.Since the hearing that took place on April 18,2013,I have received additional information and documentation that could very likely reverse the decision made by the Commissioner and change the outcome of my claim.At this time I am requesting that Ms.Fields and the Commissioners grant my request and this petition for an additional hearing on this matter before making a final decision against my claim for which I firmly believe that I am due.I have [REDACTED] several of the said documents.I pray the courts grant my request for an additional hearing on this matter.

Very Truly Yours,

Kathy Warden (Pro Se)

Kathy D Warden

401 Burns St.

RAWSON, WV

25438

CC/ Skinner



Jennifer S. Maghan
County Clerk

Jefferson County Clerk's Office

Probate

2

NOTICE OF HEARING

Veronica Bennett
109 Elm Street
Harpers Ferry, WV 25425

RE: Estate of Lester Pete Snider, deceased

Demand having been made for a hearing concerning the above-referenced estate by a **Petition for Probate in Solemn Form**, presented to the County Commission of Jefferson County, a hearing has been scheduled for **Thursday, September 12th, 2013 at 9 a.m.** to be held at the Jefferson County Commission Room in the basement of the Charles Town Library. If you are unable to attend this hearing, you are advised to contact the probate office as soon as possible.

Sincerely,

S. Lynn Fields
Deputy Probate Clerk

Karen Olden, Deputy Clerk: 304.728.3230 or kolden@jeffersoncountywv.org
S. Lynn Fields, Deputy Clerk: 304.728.3210 or lfields@jeffersoncountywv.org
Address: 100 East Washington Street, PO Box 208, Charles Town WV 25414
Fax: 304.728.1957 **Web Site:** www.jeffersoncountyclerkwv.com

LAST WILL AND TESTAMENT

OF

LESTER P. SNIDER

COPY

I, LESTER P. SNIDER, a resident of Jefferson County, West Virginia, being of sound and disposing mind and memory, do hereby make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all wills and codicils by me at any time heretofore made.

ARTICLE ONE: I direct my Executrix, hereinafter named, to pay from my residuary estate all of my just debts and funeral expenses, including any estate, transfer, succession or other inheritance taxes, as soon after my decease as it may be practicable for her to do so, and to pay the reasonable costs of a suitable marker for my grave and the inscription thereof.

ARTICLE TWO: I hereby give and bequeath such items of my personal estate to the named individuals in a written memorandum attached to this Will, knowing that my Executrix and beneficiaries will honor any memorandum I may leave respecting the disposition of certain of such property.

ARTICLE THREE: I give all my personal and household effects, not otherwise effectively disposed of, such as jewelry, clothing, automobiles, furniture, furnishings, silver, books and pictures, tools, and recreational vehicles, including policies of insurance thereon, to my friend, VERONICA F. BENNETT, if she survives me.

ARTICLE FOUR: All of the rest, residue and remainder of my estate, real, personal and mixed, of whatsoever nature and wheresoever situate, of which I shall die seized or possessed, or to which I shall be in anywise entitled at the time of my death, including any legacies which may lapse or be invalid or for any reason fail to take effect, and all property over which I shall have at the time of my death any power of appointment or

L.S. and R.S.

disposal which I shall not have otherwise exercised and released, I hereby give, devise, bequeath and appoint to my friend, VERONICA F. BENNETT; or, if she does not survive me, then to my step-son, DAVID PUMPHREY, absolutely and in fee simple.

ARTICLE FIVE: I confer upon my Executrix and any successors with respect to the management and administration of any property, real or personal, including property held under a power in trust, all powers conferred by law upon executors and trustees, including, without limitation, those powers set forth in the Powers of Fiduciaries statute (West Virginia Code Section 44-5A-1 to 44-5A-3) which are incorporated in this will by reference. In addition thereto, I confer upon my Executrix and any successors the following discretionary powers, without limitation by reason of specification:

1. If the appointment of an Executor of my estate is necessary or desirable in any jurisdiction in which my principal Executrix is unable or unwilling to act, I appoint as my Executor in that jurisdiction such individual or corporation as may be designated in an instrument signed by my principal Executrix, to act without bond and to have all the powers and discretion with respect to my estate in that jurisdiction during administration that my principal Executrix is given with respect to the balance of my estate, to be exercised without court order.

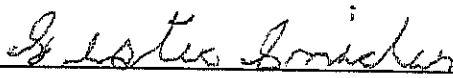
2. To do any and every other act necessary and proper to the execution of my estate.

ARTICLE SIX: In the event that any beneficiary under this Will and I shall die in a common accident or disaster or under such circumstances that any such beneficiary does not survive me for the sixty (60) day period following my decease, then I direct that for the purpose of this Will such beneficiary shall be deemed to have predeceased me.

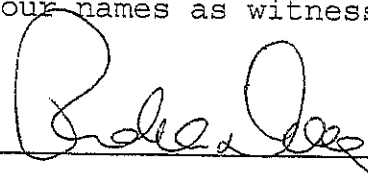
ARTICLE SEVEN: I hereby nominate and appoint my friend, VERONICA F. BENNETT, to act as Executrix of my estate, and direct that she be allowed to serve without surety on her bond. In the event that my friend, VERONICA F. BENNETT, shall for any reason fail to qualify, or having qualified, shall cease for any reason to act, then I nominate and appoint my step-son, DAVID PUMPHREY, to act as Executor in her place and stead. I further direct that my alternate executor shall be allowed to serve without surety on his bond.


ARTICLE EIGHT: Wherever the context requires or permits the number and gender shall be interchangeable so that the singular includes the plural and the plural includes singular; a female gender includes the male and neuter gender, the neuter gender includes the male and female gender, and the male gender includes the female and neuter gender.

IN WITNESS WHEREOF I have hereunto set my hand and seal, have signed my initials on the two preceding pages and acknowledge the same to be my Last Will and Testament in the presence of the undersigned witnesses this 6th day of May, 2011.


LESTER P. SNIDER

The foregoing instrument was signed, sealed, published and declared by LESTER P. SNIDER, the above named Testator, as and for his Last Will and Testament in our presence, all being present at the same time, and thereupon, we, at his request and in his presence and in the presence of each other, have initialed the two previous pages and have hereunto subscribed our names as witness this 6th day of May, 2011.


_____ of Winchester, VA


_____ of Stephens, VA

STATE OF WEST VIRGINIA,
COUNTY OF JEFFERSON, to-wit:

We, LESTER P. SNIDER, Robin A. Dorsey and Rebecca F Smith, the Testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the instrument as his Last Will and Testament, that he signed willingly or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and that each of the witnesses in the presence and hearing of the Testator and of each other, signed the Will as witness and that to the best of their knowledge the Testator was at that time 18 or more years of age, of sound mind and under no constraint or undue influence.

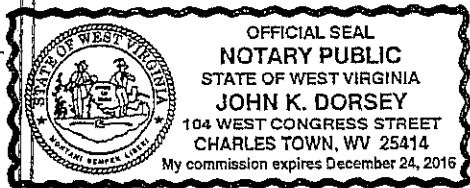
Lester P. Snider
LESTER P. SNIDER

Robin A. Dorsey
WITNESS

Rebecca F. Smith
WITNESS

Subscribed, sworn to and acknowledged before me by LESTER P. SNIDER, the Testator, and subscribed and sworn to before me by Robin A. Dorsey and Rebecca F. Smith, witnesses this 6th day of May, 2011.

AFFIX NOTARY SEAL



John K. Dorsey
NOTARY PUBLIC

My Commission Expires: December 24, 2016.

This document was prepared by John K. Dorsey, Attorney at Law.

FILE NO: 5884





Jennifer S. Maghan
County Clerk

Jefferson County Clerk's Office Probate

#3

NOTICE OF HEARING

Carroll M. Crawford
3 Whittier Heights
Hagerstown, MD 21742

RE: Estate of Elva N. Crawford, deceased

Demand having been made for a hearing concerning the above-referenced estate by a **Petition For Removal of Co-Personal Representative of the Estate of Elva N. Crawford**, presented to the County Commission of Jefferson County, a hearing has been scheduled for **Thursday, September 12th, 2013 at 9 a.m.** to be held at the Jefferson County Commission Room in the basement of the Charles Town Library. If you are unable to attend this hearing, you are advised to contact the probate office as soon as possible.

Sincerely,

S. Lynn Fields
Deputy Probate Clerk

Karen Olden, Deputy Clerk: 304.728.3230 or kolden@jeffersoncountywv.org
S. Lynn Fields, Deputy Clerk: 304.728.3210 or lfields@jeffersoncountywv.org
Address: 100 East Washington Street, PO Box 208, Charles Town WV 25414
Fax: 304.728.1957 **Web Site:** www.jeffersoncountyclerkwv.com

IN THE JEFFERSON COUNTY COMMISSION, WEST VIRGINIA

IN RE: THE ESTATE OF ELVA N. CRAWFORD

PETITION FOR REMOVAL OF CO-PERSONAL REPRESENTATIVE, CARROLL M. CRAWFORD,
FROM THE ADMINISTRATION OF THE ESTATE OF ELVA N. CRAWFORD

Now comes Fred G. Crawford and Evon E. Williams, Co-Personal Representatives of the Estate of the Decedent Elva N. Crawford (hereinafter "Decedent"), and respectfully petition this Honorable Commission for the removal of Carroll M. Crawford from any further participation as the Co-Personal Representative of the subject Estate. In support of this Petition, Fred G. Crawford and Evon E. Williams (hereinafter "Petitioners") respectfully state the following:

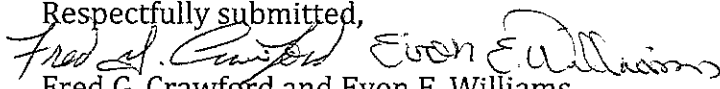
1. The Decedent died testate on July 8, 2007. (*See attached "Death Certificate", Exhibit Number 1*)
2. The Decedent executed a "Last Will and Testament" dated April 20th, 1970. (*See attached "Last Will and Testament of Elva N. Crawford", Exhibit Number 2*)
3. The Petitioners and Carroll M. Crawford, children of the Decedent, were appointed as Co-Personal Representatives of the Decedent's Estate.
4. Carroll M. Crawford was removed as Co-Personal Representative of the Estate by the Orphan's Court of Washington Country, Maryland on or about April 18th, 2008. The reasons for his removal are set forth in the attached document. (*See attached "Petition for Removal of Co-Personal Representative", Exhibit Number 3*)
5. The Decedent's estate in Maryland was closed with the sale of the residence and personal property. The assets were divided between the three heirs to the estate on or about September 8th, 2009. (*See attached "Second and Final Administration account of Fred G. Crawford and Evon E. Williams, Co-Personal Representatives of the Estate of Elva N. Crawford", Exhibit Number 4*)
6. The Decedent's Estate also includes a 38.24 acre tract of land located in Charles Town, West Virginia, which is recorded in the Office of the Clerk of Jefferson County's deed book 393, page 141. (*See attached "Deed", Exhibit Number 5*)
7. On or about April 8th, 2008, a claim was brought against the estate by Carroll M. Crawford for the value of five acres of land from the 38.24 acre tract. Carroll M. Crawford claimed that he and the Decedent (our mother) entered into a contract, which was written by Carroll and which he and the Decedent allegedly signed on July 31st, 2007. Carroll M. Crawford claimed that he had loaned our father, Fred Crawford, the value of his childhood insurance policy in exchange for the option to purchase five acres of the property at \$653.77 per acre. Carroll M. Crawford alleged that his agreement with our father, Fred Crawford, was a verbal

agreement and confirmed that he has no supporting evidence of the agreement. According to Carroll M. Crawford's claim the verbal agreement with our father was made in 1975. (See attached "Claim and Agreement Letter", Exhibit Number 6)

8. Carroll M. Crawford's claim for the five acres of land was filed in Jefferson County and heard by the Fiduciary Commissioner, Mr. David De Jarnett. The claim was denied on July 23rd, 2009. (See attached "Court Findings Re. Carroll M. Crawford's Claim for Jefferson County Property", Exhibit Number 7)
9. Petitioner Evon Williams addressed a letter to Carroll M. Crawford on or about October 12th, 2012 in an attempt to reach a reasonable conclusion regarding the sale of the property located in Jefferson County in order to close the estate. Approximately five months later Carroll M. Crawford provided his response. (See attached "Letter Addressed to Mr. Carroll Crawford", Exhibit Number 8; "Letter Received from Mr. Carroll Crawford", Exhibit Number 9)
10. Since his appointment, Carroll M. Crawford has failed to perform his duties as Co-Personal Representative in the best interest of the Estate by exhibiting undue delay in administering the Estate, exhibiting unreasonable hostility toward the other Co-Personal Representatives of the Estate (the Petitioners), and other conduct detrimental to the interests of the Estate and the heirs and beneficiaries. Over the past six years the Estate has not been closed due to irreconcilable differences between the Petitioners and Carroll M. Crawford. Moreover, Carroll M. Crawford's false claims have not only delayed the sale of the property, but it has also resulted in undue cost to the Estate. For additional background information, please reference the attached letter from the Petitioners summarizing Carroll M. Crawford's unwillingness and antagonistic approach in administering the Estate. (See attached, "Petitioners' Letter to the County Commission", Exhibit Number 10)

The Petitioners respectfully request this Honorable Commission to remove Carroll M. Crawford as Co-Personal Representative of the Estate as he is not acting in the best interests of the Estate or of the heirs or beneficiaries and causing undue delay in the sale of the property and ultimately the closing of the Estate; that the Petitioners should continue as Co-Personal Representatives of the Estate and continue to fulfill their duties as such to ensure that the Estate of Elva N. Crawford is closed.

Respectfully submitted,



Fred G. Crawford and Evon E. Williams,
as Co-Personal Representatives of the Estate of Elva N. Crawford, deceased
Petitioners

VALID ONLY
WITH
IMPRESSED
SEAL

I HEREBY CERTIFY THAT THE ATTACHED IS A TRUE COPY OF A
RECORD ON FILE IN THE DIVISION OF VITAL RECORDS.

DATE ISSUED:
July 11, 2007

STATE REGISTRAR OF VITAL RECORDS

State of Maryland / Department of Health and Mental Hygiene
Certificate of Death

1- For State Registrar

Reg. No.

Physician /Medical Examiner	1. Decedent's Name (First, Middle, Last) Elva Nellie Crawford		2. Date of Death Month Day Year July 8 2007		3. Time of Death 3:00 P M	
	4a. Facility Name (If not institution, give street and number) Washington County Hospital		4b. City, Town, or Location of Death Hagerstown		4c. County of Death Washington	
Funeral Director	5. Social Security Number 215-26-1640		6. Sex <input type="checkbox"/> M <input checked="" type="checkbox"/> F		7. Age (In yrs. last birthday) 81 Yrs.	
	8. Date of Birth (Month, Day, Year) Feb. 14, 1926		9. Birthplace (State or Foreign Country) Maryland			
To Be Completed by Funeral Director	10a. State Maryland		10b. County Washington		10c. City, Town or Location Hagerstown	
	10d. Inside City Limits <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		10e. Street and Number 11911 Wesley Dr.		10f. Zip Code 21742	
	10g. Citizen of What Country? U.S.A.		11. Marital Status <input type="checkbox"/> Never Married <input type="checkbox"/> Married <input checked="" type="checkbox"/> Widowed <input type="checkbox"/> Divorced		12. Was Decedent Ever in U.S. Armed Forces? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, Give Year or Dates:	
	13. Decedent's Education (Specify only highest grade completed) Elementary/Secondary (0-12) 12 College (1-4or 5+) 12		14. Decedent's Usual Occupation (Give kind of work done during most of working life. DO NOT use retired) Homemaker		15. Kind of Business/Industry Domestic	
	16. Decedent of Hispanic Origin? (Specify Yes or No. If Yes, specify Cuban, Mexican, Puerto Rican, etc.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify:		17. Father's Name (First, Middle, Last) Arie Michael Kline		18. Mother's Name (First, Middle, Maiden Surname) Emma Blickenstaff	
	19a. Informant's Name/Relationship (Type, Print) Fred Gary Crawford / son		19b. Mailing Address (Street and Number or Rural Route Number, City or Town, State, Zip Code) 2328 Warm Springs Road Shennadoah WV 25442			
	20a. Method of Disposition <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Reinterment from State <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify)		20b. Place of Disposition (Name of cemetery, crematory or other place) Rest Haven Cemetery		20c. Date 7/12/2007	
	20d. Location - City or Town, State Hagerstown, MD		21. Signature of Funeral Service Licensee 		22. Name and Address of Facility Rest Haven Funeral Chapel 1601 Pennsylvania Ave., Hagerstown, MD 21742	
	23a. Part I. Enter the disease, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Immediate Cause (Final disease or condition resulting in death) a. <u>Complete Heart Failure</u> Due to (or as a consequence of): b. <u>Renal Failure</u> Due to (or as a consequence of): c. <u>Coronary Artery Disease</u> Due to (or as a consequence of): d. _____		Approximate Interval Between Onset and Death			
	IF FEMALE: 23b. Was decedent pregnant in the past 12 months? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown		23c. If yes, outcome of pregnancy <input type="checkbox"/> Live birth <input type="checkbox"/> Fetal death <input type="checkbox"/> Ectopic pregnancy <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Other (specify)		23d. Date of delivery Month Day Year	
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. <u>Diabetes</u>		23e. Did tobacco use contribute to the cause of death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Probably <input type="checkbox"/> Unknown		24a. Was an autopsy performed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
24b. Were autopsy findings available prior to completion of cause of death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		25. Was case referred to medical examiner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		26. Place of Death (Check only one) Hospital: <input checked="" type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DCA Other: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)		
27. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined		28a. Date of Injury (Month, Day Year)		28b. Time of Injury M		
28c. Injury at Work? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		28d. Describe how injury occurred		28e. Place of Injury - At home, farm, street, factory, office building, etc. (Specify)		
28f. Location (Street and Number or Rural Route Number, City or Town, State)		29a. Certifier (Check only one) <input checked="" type="checkbox"/> Certifying Physician: To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner as stated. <input type="checkbox"/> Medical Examiner: On the basis of examination and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated.		29b. Signature and title of certifier 		
29c. License number D50362		29d. Date signed (Month, Day, Year) July 9 2007		30. Name and address of person who completed cause of death (item 28a) (Type, Print) Dr Cantone 22911 Jefferson Blvd. Smithsburg Maryland		
31. Date filed (Month, Day, Year) JUL 11 2007		32. Registrar's Signature 				

Baltimore, Maryland 21215-0036

Division of Vital Records, P.O. Box 68760,

SH-3

EXHIBIT

LAST WILL AND TESTAMENT

OF

ELVA N. CRAWFORD

I, ELVA N. CRAWFORD, of Washington County, Maryland, being of sound and disposing mind, memory and understanding, do hereby make this, my Last Will and Testament, hereby revoking all other Wills and Codicils heretofore made by me.

After the payment of all my just debts and funeral expenses, I dispose of my estate and property as follows:

ITEM I: I give, devise and bequeath all the rest and residue of my estate of every nature and kind, and wheresoever situate, unto my husband, Fred J. Crawford, should he survive me.

ITEM II: In the event that my husband should predecease me or in the event that my husband and I should meet death in a common disaster or under such circumstances as to render it difficult or impossible to determine the certainty of whether or not he survived me, then, in either of said events, I hereby give, devise and bequeath all of my property, of whatsoever nature or kind and wherever situate unto my children. Should any of my children be not living at the time of my death, the issue of any deceased child or children shall take the share or shares to which the parent, if living, would have been entitled, said issue to take per stirpes and not per capita.

ITEM III: I hereby constitute, nominate and appoint my husband, Fred J. Crawford, to serve as the Personal Representative of this, my Last Will and Testament. In the event that my said husband should not survive me, or be unwilling or unable to act as my Personal Representative of this, my estate, then I nominate, constitute and appoint my children as the Personal Representatives of my estate.

I hereby confer upon my Personal Representative full power to do and perform all things necessary or advisable to

Elva N. Crawford

EXHIBIT

2

LLER, MILLER &
KUCZYNSKI
TORNEYS AT LAW

facilitate the administration of my estate, or for any reason which to him may seem to be for the best interest of my estate, and the beneficiaries thereof, including, but not limited to, full power to borrow money and to give as security therefor any assets of my estate, to compromise and settle in such manner as in his absolute discretion may seem proper all claims belonging to or against my estate, and to sell any property, real or personal, owned by me at the time of my death, either at private or public sale or sales, at such price or prices, and upon such terms and conditions as my Personal Representative, in his sole discretion, may deem advisable or proper. All such powers shall be exercisable by my Personal Representative without application to any Court under whose jurisdiction he may administer my estate.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal this 20th day of April, A. D. 1970.

Elva N. Crawford (SEAL)
Elva N. Crawford

Signed, sealed, published and declared by ELVA N. CRAWFORD, the above named Testatrix, as and for her Last Will and Testament, in the presence of us, who, at her request, in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

Edward Miller, Address: Hagerstown, Md.
Olive R. Shupp, Address: Hagerstown, Md.

COPY

IN THE MATTER OF
THE ESTATE OF
ELVA N. CRAWFORD,
DECEASED

* IN THE ORPHANS' COURT
* FOR WASHINGTON COUNTY,
* MARYLAND
* ESTATE NO. 60996

SHOW CAUSE ORDER

Upon the foregoing Petition For Removal of Co-Personal Representative (the "Petition"), it is this 7th day of March, 2008, by the Orphans' Court for Washington County, Maryland

ORDERED, that on or before the 27th day of March, 2008, Carroll M. Crawford show cause, if any he has, why he should not be removed as Co-Personal Representative of the Estate of Elva N. Crawford, and, it is further

ORDERED, that a hearing on the Petition is set for the 11th day of April, 2008, at 9:30 a.m.; and, it is further

ORDERED, that Petitioners, Evan E. Williams and Fred G. Crawford, serve a copy of this Order upon Carroll M. Crawford by certified mail, return receipt requested, and regular mail and upon all other interested parties in the Estate by regular mail.

Joseph W. Eickelinger
Ann M. Krimer
Gloria A. Boston
Judges, Orphans' Court for
Washington County, Maryland

FILED
2008 MAR -7 A 10:56

REGISTER OF WILLS
BY: [Signature]

Exhibit
3

ESTATE OF:
ELVA NELLIE CRAWFORD

CERTIFICATE OF SERVICE OF REGISTER OF WILLS

I hereby certify, that on this 7th day of MARCH, 2008, I mailed by certified mail, a copy of the foregoing paper to the following persons:

Name and Address

CARROLL M CRAWFORD

3 WHITTIER HEIGHTS
HAGERSTOWN, MD 21742-

NOTICES NOT REQUIRED

JOHN R. BLOYER
Register of Wills for
Washington County

03/07/2008
Date


Deputy Register

ESTATE OF:
ELVA NELLIE CRAWFORD

CERTIFICATE OF SERVICE OF REGISTER OF WILLS

I hereby certify, that on this 7th day of MARCH, 2008, I delivered or mailed, postage prepaid, a copy of the foregoing paper to the following persons:

Name and Address

<u>CARROLL M CRAWFORD</u>	<u>3 WHITTIER HEIGHTS</u> <u>HAGERSTOWN, MD 21742-</u>
<u>EVON E WILLIAMS</u>	<u>432 LARKSPUR LANE</u> <u>MARTINSBURG, WV 25403-</u>
<u>FRED G CRAWFORD</u>	<u>2328 WARM SPRINGS ROAD</u> <u>SHENANDOAH JCT, WV 25442-</u>
<u>JAMES D. JOHNSON JR ESQ</u>	<u>20 W. WASHINGTON STREET</u> <u>SUITE 403</u> <u>HAGERSTOWN, MD 21740-</u>

JOHN R. BLOYER
Register of Wills for
Washington County

NOTICES NOT REQUIRED

03/05/2008
Date


Deputy Register

COPY

IN THE MATTER OF
THE ESTATE OF
ELVA N. CRAWFORD,
DECEASED

* IN THE ORPHANS' COURT
* FOR WASHINGTON COUNTY,
* MARYLAND
* ESTATE NO. 60996

* * * * *

PETITION FOR REMOVAL OF CO-PERSONAL REPRESENTATIVE

EVON E. WILLIAMS and FRED G. CRAWFORD, by James D. Johnson, Jr., his attorney, hereby petitions this Honorable Court to issue an Order removing Carroll M. Crawford as Co-Personal Representative of the Estate of Elva N. Crawford. The grounds of the Motion are as follows

1. Elva N. Crawford (the "Decedent") died testate on July 8, 2007.
2. Decedent executed a Last Will and Testament dated April 20, 1970 (the "Will").
3. Your Petitioners and Carroll M. Crawford, the children of the Decedent, were appointed Co-Personal Representatives of Decedent's Estate.
4. From the commencement of the proceedings, Carroll M. Crawford has failed to discharge his duties as Co-Personal Representative. Specifically, Carroll M. Crawford:

(a) failed to pay debts and obligations rightfully owed by the Decedent and/or the Estate;

(b) misappropriated certain firearms which were property of the Estate and failed to return them or make them available for auction sale despite repeated requests to do so;

(c) refused to participate in efforts to sell Decedent's West Virginia real estate;

(d) refused to take reasonable steps to sell Decedent's residence located at 19111 Wesley Drive, Hagerstown, Maryland 21742.

5. Because of Carroll M. Crawford's unwillingness or inability to perform his duties as Co-Personal Representative, administration of this Estate has been delayed for almost nine (9) months.

6. The failure to act by Carroll M. Crawford constitutes grounds for his removal. Specifically,

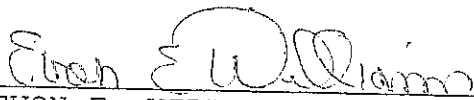
(a) Carroll M. Crawford's inaction over the past nine (9) months demonstrates he "is unable or incapable, with or without his own fault, to discharge his duties and powers effectively." See, Sect. 6-306(a)(3), *Estates and Trusts Article*, Ann. Code of Md.

(c) By his inaction over the past nine (9) months, Carroll M. Crawford "has failed, without reasonable excuse, to perform a material duty pertaining to his office." See, Sect. 6-306(a)(6), *Estates and Trusts Article*, Ann. Code of Md.

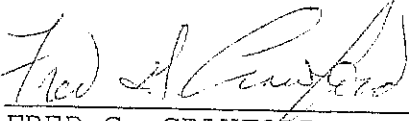
WHEREFORE, your Petitioners, EVAN E. WILLIAMS and FRED G. CRAWFORD, requests this Honorable Court:

A. Remove Carroll M. Crawford as Co-Personal Representative;

B. Pass an Order pursuant to Rule 6-452(b)(2) directing Carroll M. Crawford to show cause why he should not be removed as Co-Personal Representative and setting a hearing.

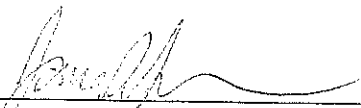


EVON E. WILLIAMS, Co-Personal
Representative of the Estate
of Elva N. Crawford/Petitioner



FRED G. CRAWFORD, Co-Personal
Representative of the Estate
of Elva N. Crawford/Petitioner

JAMES D. JOHNSON, JR., P.A.

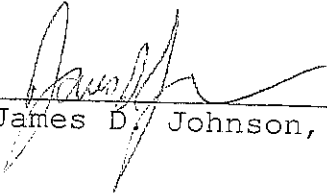
By: 

James D. Johnson, Jr., Esquire
20 West Washington Street; Suite 403
Hagerstown, Maryland 21740
(301) 733-0122

Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5 day of March, 2008, I mailed, postage prepaid, a copy of the foregoing Petition For Removal Of Co-Personal Representative to Carroll M. Crawford, 3 Whittier Heights, Hagerstown, Maryland 21742.



James D. Johnson, Jr.

COPY

IN THE MATTER OF

THE ESTATE OF

ELVA NELLIE CRAWFORD,

DECEASED

* IN THE

* ORPHANS' COURT

* FOR WASHINGTON COUNTY,

* MARYLAND

* ESTATE NO. 60996

* * * * *

SECOND AND FINAL ADMINISTRATION ACCOUNT OF
FRED G. CRAWFORD AND EVON E. WILLIAMS,
CO-PERSONAL REPRESENTATIVES
OF THE ESTATE OF ELVA NELLIE CRAWFORD

YOUR ACCOUNTANTS CHARGES THEMSELVES WITH THE FOLLOWING:

ASSETS RETAINED FROM FIRST ACCOUNT:

Real Estate	\$218,060.00	
Tangible Personal Property	650.00	
Cash	1.43	\$218,711.43

AND WITH THE GAIN(LOSS) FROM THE
SALE OF INVENTORIED ASSETS:

11911 Wesley Drive Hagerstown, MD - Sold 06/26/2008		
Inventory Value	\$218,060.00	
Gross Sales Proceeds	160,000.00	<58,060.00>

TOTAL ESTATE TO BE ACCOUNTED FOR: \$160,651.43

AND THEY REQUEST ALLOWANCE FOR PAYMENTS
OF THE FOLLOWING EXPENSES:

Reimbursement of Monies Advanced to pay probate fees to Fred G. Crawford and Evon E. Williams, Co-Personal Representatives'		\$ 400.00
Commissions Per Order of Court		6,320.00

Exhibit
4

James D. Johnson, Jr. - Attorney's Fees per Order of Court		5,200.00*
Sheriff and Treasurer of Jefferson County - real estate taxes		1,421.60
Carroll M. Crawford - reimbursement for florescent bulbs		9.96
Allegheny Power		13.81
Fred G. Crawford - unpaid reimbursement from First Account		25.00
Expenses in connection with sale of Real Estate:		
J.G. Cochran - Auctioneer's Fee	\$ 3,200.00	
J.G. Cochran - Advertising	103.01	
James L. Randall - Appraiser	350.00	
1/2 Recordation Tax	608.00	
1/2 State Transfer Tax	400.00	
1/2 County Transfer Tax	275.00	
Prorated Water (4/12/08 - 6/26/08)	11.80	
Real Estate Tax Reimbursement	<39.58>	<u>4,908.23</u>
TOTAL EXPENSES:		\$18,298.60
TOTAL ESTATE FOR DISTRIBUTION		\$142,352.83
DISTRIBUTED AS FOLLOWS:		
UNTO: CARROLL M. CRAWFORD, son		
Gross Distribution consisting of:		
cash		\$46,800.95
Tangible Personal Property		650.00
less Rule 6-141 attorney's fee		<u>(2,340.00)</u>
NET DISTRIBUTION:		\$45,110.95
UNTO: EVON E. WILLIAMS, daughter		
Gross Distribution consisting of:		
cash		\$47,450.94
plus Rule 6-141 attorney's fees		<u>1,170.00</u>
NET DISTRIBUTION:		\$48,620.94

*A Motion has been filed under Rule 6-141 requesting \$2,340.00 of these fees be assessed against Carroll M. Crawford. This Account has been prepared assuming this Motion will be granted.

UNTO: Fred G. Crawford, son
Gross Distribution consisting of:
cash \$47,450.94
plus Rule 6-141 attorney's fees 1,170.00

NET DISTRIBUTION: \$48,620.94

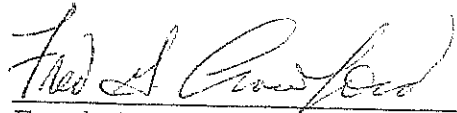
TOTAL NET DISTRIBUTIONS: \$142,352.83

RECONCILIATION:

TOTAL ESTATE TO BE ACCOUNTED FOR:		\$160,651.43
Expenses	\$ 18,298.60	
Inheritance Tax	0.00	
Net Distributions	<u>142,352.83</u>	\$160,651.43

OATH

We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing Second and Final Administration Account of Fred G. Crawford and Evon E. Williams, Co-Personal Representatives of the Estate of Elva Nellie Crawford are true and complete to the best of our knowledge, information and belief; and that we have complied with Rule 6-417 of the Maryland Rules of Procedure and Section 7-301 of the Estates and Trusts Article of the Annotated Code of Maryland.




Fred G. Crawford



Evon E. Williams

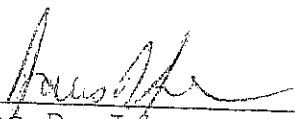
JAMES D. JOHNSON, JR., P.A.



James D. Johnson, Jr., Esquire
20 West Washington St., Suite 403
Hagerstown, Maryland 21740
(301) 733-0122
Attorney for the Estate of
Elva Nellie Crawford

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 9 day of September, 2008, a copy of the foregoing Second and Final Administration Account of Fred G. Crawford and Evon E. Williams, Co-Personal Representatives of the Estate of Elva Nellie Crawford, was mailed, postage prepaid to Carroll M. Crawford, 3 Whittier Heights, Hagerstown, Maryland 21742.



James D. Johnson, Jr.

2471

THIS DEED Made this 21st day of July, 1975, by and between CHARLES H. STRIDER, JR. and JANE W. STRIDER, husband and wife, parties of the first part, and, FRED J. CRAWFORD and ELVA N. CRAWFORD, husband and wife, parties of the second part.

WITNESSETH: That for and in consideration of the sum of Twenty-five Thousand (\$25,000.00) Dollars, cash in hand paid, the receipt whereof is hereby acknowledged, the said parties of the first part do hereby grant and convey, with covenants of general warranty, unto Fred J. Crawford and Elva N. Crawford, as joint tenants with right of survivorship as at common law and not as tenants in common, that certain tract or parcel of real estate, containing 38.24 acres, situate in Charles Town District, Jefferson County, West Virginia, and more particularly designated and described as Tract B on that certain plat made by Lea A. Zbart, Licensed Land Surveyor, No. 84, dated June 9, 1975, attached to, made a part of and recorded with that certain deed dated June 26, 1975, from Charles H. Strider, Jr., et. ux., to Ziglex, Inc., a West Virginia corporation, in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book 392, at Page 141, as follows:

BEGINNING at an iron pin in the southwestern line of the Retained Portion, also the southwest line of the 30.0 foot right of way, a corner to the 55.61 Acre Tract A, running with the said southwestern line, S. 49° 09' 54" E. 293.93 feet to an iron pin, corner to the 29.55 Acre Tract, also a corner to the said right of way, and continuing with the southwestern line of the said 29.55 Acre Tract, S. 49° 09' 54" E. 845.96 feet, in all, to an iron pin in the northwestern line of the Rissler Land; thence with the said line, S. 37° 42' 25" W. 1,860.22 feet to a post in the northeastern line of the Ziglex, Inc. land; thence with the said line, the southwestern line of the old road-bed, N. 51° 16' 57" W. 930.88 feet to an iron pin, corner to the Retained Portion (55.61 Acre Tract A); thence with the southeastern line of the said other land, N. 40° 18' 49" E. 1,891.92 feet to the point of beginning, containing 38.24 acres.

SUBJECT, HOWEVER, to the rights of the public to use Shenandale Road, if said rights remain, and further subject to easements and rights of way for utility purposes, both of record and such as may be disclosed by a reasonable inspection of the premises.

The parties of the first part do further grant and convey unto the said parties of the second part, in their capacities as aforesaid, their successors and assigns, a non-exclusive easement or right of way

Mailed To:
Mr & Mrs Fred J Crawford
73 Hedberg Drive
Hagerstown, Md. 21740
8/21/75

Exhibit
5

COPY

498

appurtenant to Tract B, 30.0 feet in width (the fee simple ownership of the land over which said easement or right of way passes shall remain in the parties of the first part), as designated on the aforesaid plat and more particularly described as follows:

BEGINNING in the southwest line of Route 36, a corner with Crim; thence with Crim the following courses and distances, S. 37° 42' 25" W. 858.43 feet; thence S. 03° 36' 45" W. 83.06 feet; thence S. 36° 07' 30" W. 341.28 feet; thence S. 69° 52' 35" W. 103.31 feet; S. 37° 42' 25" W. 1,059.09 feet to an iron pin in the northeast line of Tract B; thence with the same and a portion of Tract A, N. 49° 09' 54" E. 443.93 feet; thence by a new line with Strider, N. 40° 50' 06" E. 30.0 feet to a new corner with Strider; thence by new lines with Strider the following courses and distances, S. 49° 09' 54" E. 412.25 feet; thence N. 37° 42' 25" E. 1,035.06 feet; thence N. 69° 52' 35" E. 104.86 feet; thence N. 36° 07' 30" E. 323.43 feet; thence N. 03° 36' 45" E. 83.51 feet; thence N. 37° 42' 25" E. 873.83 feet to a point in the southwest line of Route 36; thence with the same, S. 40° 36' 41" E. 30.63 feet to the point of beginning.

TOGETHER WITH that certain strip of land, being a portion of Route 36 from the center line to the southwest line thereof where the right of way herein granted adjoins said Route 36, SUBJECT, HOWEVER, to the use of said Route 36 as a public road and further subject to easements and rights of way for utility purposes, both of record and such as may be disclosed by a reasonable inspection of the premises.

The aforesaid easement and right of way shall be used jointly and in common with the parties of the first part, their executors, administrators and heirs, or such grantees of the parties of the first part of the residue of the tract designated as Cave Farm on the Plat recorded in Deed Book L, at Page 215, as the parties of the first part, in the future, shall determine, and the successors and assigns of said grantees, for the purpose of erecting, laying, maintaining and using electric, telephone, water, sewer or other utility lines and for drainage as well as passage and transportation of all kinds for ingress to and egress from the parcel hereindescribed and Route 36 (Cave Road). PROVIDED, HOWEVER, the parties of the first part, their executors, administrators, heirs, successors or assigns shall have no obligation to grade, construct, improve or maintain any road over said easement or right of way, nor construct or maintain any fence along the boundaries

5

of said easement or right of way to turn livestock of the parties of the first part, and any such grading, construction, improvement or maintenance of any road over or construction or maintenance of any such fence along said easement or right of way to turn livestock of the parties of the first part shall be at the expense of the parties of the second part, their successors or assigns, or such other grantees of the parties of the first

part, their successors and assigns, as shall use the same.

AND BEING a portion of the same real estate which was conveyed to the said parties of the first part by deed dated May 5, 1958, and recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book 224, at Page 200.

At the time of the sale of this parcel of real estate, the parties of the first part are not engaged in agriculture, horticulture or grazing of livestock. The parties of the second part covenant and agree with the parties of the first part that in the event either the parties of the first part, or the parties of the second part, shall use their real estate for purposes of agriculture, horticulture or grazing of livestock or horses, that the parties of the second part, at the expense of the parties of the second part, shall erect and maintain a lawful fence enclosing the premises so purchased by them along the adjoining boundaries between the parties of the first part and the parties of the second part.

The parties of the first part agree to give the parties of the second part thirty (30) days written notice in the event the parties of the first part should, at any time in the future, use the property of the parties of the first part for agriculture, horticulture or grazing of livestock or horses, and, in the event the parties of the second part, after receiving said notice, shall fail or refuse to erect and maintain a lawful fence, as hereinbefore provided, the parties of the first part shall be released from any and all liability by reason of any damage sustained by the parties of the second part in their failure to erect and maintain such lawful fence.

6

Book Page 500

500.

The parties of the first part and the parties of the second part covenant and agree that the residue of the land of the parties of the first part, known as Cave Farm, as designated on the Plat of Land Allotted to Charlotte E. Sublette, recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book L, at Page 215, and the tract or parcel of real estate herein conveyed to the parties of the second part shall not be used for the parking or erection of any mobile home or trailer for any purpose, or, for use as a mobile home or trailer park and that the aforesaid land of the parties of the first part and the tract or parcel herein conveyed to the parties of the second part shall be used only for residential purposes, agricultural purposes, horticultural purposes and purposes of grazing livestock and horses.

The covenants and agreements hereinbefore recited shall run with the land and be mutually binding upon the parties of the first part, their heirs, administrators, successors and assigns, and upon the parties of the second part, their executors, administrators, successors and assigns.

DECLARATION OF CONSIDERATION OR VALUE: Under the penalties of fine and imprisonment, as provided by law, CHARLES H. STRIDER, JR., whose address is Charles Town, West Virginia, does hereby declare that the total consideration paid for the property conveyed by the document to which this declaration is appended is Twenty-five Thousand (\$25,000.00) Dollars.

WITNESS the following signatures and seals.



Charles H. Strider Jr. (SEAL)
 Charles H. Strider, Jr.
Jane W. Strider (SEAL)
 Jane W. Strider
Fred J. Crawford (SEAL)
 Fred J. Crawford
Edwin M. Crawford (SEAL)
 Edwin M. Crawford

7

501

STATE OF WEST VIRGINIA
COUNTY OF JEFFERSON, to-wit:

I, Alvora M. Coulter, a Notary Public, in and for the County and State aforesaid, hereby certify that CHARLES H. STRIDER, JR., and JANE W. STRIDER, husband and wife, whose names are signed to the writing hereto annexed, bearing date the 21st day of July, 1975, have this day acknowledged the same before me in my said County.

Given under my hand this 21st day of July, 1975.
My commission expires March 11, 1976.

Alvora M. Coulter
Notary Public

STATE OF WEST VIRGINIA
COUNTY OF JEFFERSON, to-wit:

I, Thomas W. Steptoe, a Notary Public, in and for the County and State aforesaid, hereby certify that FRED J. CRAWFORD and ELVA N. CRAWFORD, husband and wife, whose names are signed to the writing hereto annexed, bearing date the 21st day of July, 1975, have this day acknowledged the same before me in my said County.

Given under my hand this 1st day of August, 1975.
My commission expires October 6, 1983.

Thomas W. Steptoe
Notary Public

This deed was prepared by
F. Dean Nichols, Attorney
at Law, Charles Town, W. Va. 25414.

State of West Virginia, County of Jefferson, Sct.

IN THE CLERK'S OFFICE OF THE COUNTY COURT:

On AUG 8 1975, the foregoing Deed of B. & S.

was received in my said office and duly admitted to record.

Test,

John E. Ott
Clerk of said Court

8

COPY

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

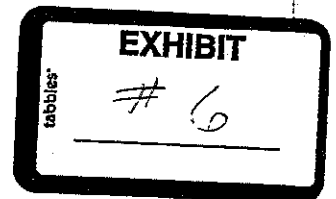
IN RE: ESTATE OF ELVA NELLIE CRAWFORD, DECEASED

FINDINGS AND RECOMMENDATIONS UPON CLAIM BY CRAWFORD

There came before the undersigned Fiduciary Commissioner the 3rd day of December, 2008, Claimant, Carroll M. Crawford, in person and by counsel, Carmela M. Cesare, ("Claimant") and the Personal Representatives of the Estate, Evon E. Williams and Fred G. Crawford, in person and by counsel, William T. Rice, (the "Estate") upon Claimant's claim and Estate's Counteraffidavit, and it appearing to your Fiduciary Commissioner that:

STATEMENT OF CASE

1. Elva Nellie Crawford deceased testate on July 8, 2007. Evon E. Williams and Fred G. Crawford were appointed as Co-Executors of the Estate on or about October 11, 2007.
2. There is pending before your Fiduciary Commissioner a claim filed by the Claimant before the County Commission of Jefferson County, West Virginia on or about April 10, 2008. The claim asserts that the Estate is indebted to the Claimant for "the value of 5 acres of land less \$1961.31." A copy of the claim is attached hereto.
3. The Estate made and filed a counteraffidavit against the claim on or about April 29, 2008. A copy of the counter affidavit is attached hereto.
4. The undersigned was appointed as fiduciary commissioner for the Estate by the County Commission.
5. At the election of the Claimant, a hearing was had before your Fiduciary Commissioner on December 3, 2008. Subsequent to the hearing, the Claimant and the Estate filed with your Fiduciary Commissioner memorandums of law. A copy of each of the memorandums is attached hereto.



FINDINGS AND RECOMMENDATIONS

1. The nature of the claim is the Claimant's assertion that he and his mother, the decedent, Elva Nellie Crawford, entered into a binding, written contract which memorialized an option to purchase realty agreement that the Claimant had with his father, who predeceased the decedent. The Claimant prays that the Estate be ordered to pay him the value of the property which is the subject of the alleged binding contract, less the exercise price under the option agreement.

2. The Claimant asserts that, upon his father's request, he provided his father access to a sum of money in 1975 which permitted his father to purchase a tract of land consisting of 38 acres, more or less. This money allegedly constituted the proceeds of a life insurance policy assigned by the Claimant to his father. In exchange therefore, the father allegedly granted to the Claimant an option to purchase five (5) acres of the 38 acre tract for \$653.77 per acre. At the hearing, the Claimant did not present any documentary evidence to corroborate the existence of such an option agreement or the assignment of the life insurance policy.

3. Having not exercised the alleged option during his father's life, the Claimant prepared an agreement ("Agreement") which was signed by he and his mother, the decedent, Elva Nellie Crawford, and which was recorded in the Office of the Clerk of the County Commission of Jefferson County, after the decedent's death. The original of this Agreement was presented at the hearing and marked as "Plaintiff's Exhibit #1," and a copy thereof is attached hereto.

4. Other than the execution of the Agreement, the Claimant took no steps to acquire five acres from his mother per the terms of the Agreement during her life because he did not want to cause family friction.

5. Your Fiduciary Commissioner finds that the Claimant has not met his burden of proof to show the existence of a binding option agreement between he and his father. Your Fiduciary Commissioner's analysis will be focused therefore, solely on whether the Agreement signed by the Claimant and his mother is a binding contract to buy and sell real estate which now obligates the Estate to pay the Claimant on his claim.

6. The material portions of the Agreement state as follows:

"By signing this statement I agree to purchase, and my mother agrees to sell and deed a total of 5 acres from her name into my name for the total amount of \$1,961.31. In the event my mother (Elva N. Crawford) has exhausted her assets and should need the proceeds from this land, I will give as gift back to her."

7. The Estate asserts that the decedent was not competent at the time that she signed the Agreement, or that she was the subject of undue influence imposed by the Claimant at the time of signing the Agreement. Your Fiduciary Commissioner finds that the Estate has not met its burden of proof to show lack of legal capacity to sign the Agreement and has not met its burden of proof to show that the act of signing the Agreement was not the exercise of the decedent's free will. Your Fiduciary Commissioner would note that the letter from Vincent A. Cantone MD presented by the Estate subsequent to the adjournment of the hearing was not considered by your Fiduciary Commissioner since it was not timely presented.

8. The Estate asserts that the Claimant violated his fiduciary duty to the decedent, and that the execution of the Agreement with the decedent constituted constructive fraud. Your Fiduciary Commissioner notes that the Estate offers these theories as defenses to the claim and seeks to invalidate the Agreement by their application. Your Fiduciary Commissioner finds that the application of these theories cannot result in invalidation of the Agreement. These theories are the proper subject of a civil action in Circuit Court that the Estate may choose to file.

Therefore, your Fiduciary Commissioner finds that the application of these theories do not invalidate the Agreement.

9. The Estate asserts that it must be excused from performance of the Agreement because the terms of the Agreement are impossible to perform since the Estate cannot subdivide and convey three parcels to the children of the decedent per the terms of the decedent's last will and subdivide and convey a five acre parcel to the Claimant under the applicable rules and regulations of the Jefferson County Planning Commission. Your Fiduciary Commissioner notes that the decedent's last will does not direct the personal representative of the Estate to subdivide any real estate owned by the decedent. Generally, the real estate of a decedent may be sold by the personal representative (if that power is granted by the last will, which in this case it is), or undivided interests in the real estate may pass to the beneficiaries under the will in kind as tenants in common. Moreover, if a decedent entered into a binding contract during life, the obligation of the estate to fulfill the contract takes precedence over the interests of residual beneficiaries under the decedent's last will. Therefore, your Fiduciary Commissioner finds that, to the extent that the Agreement is otherwise enforceable, performance of the decedent's obligations is not excused under the theory of impossibility of performance.

10. The Estate asserts that the Statute of Frauds, W.Va. Code § 36-1-3, requires that the Agreement be held invalid. The ground for this argument is that the Agreement does not identify which five acres is the subject of the Agreement. W.Va. Code § 36-1-3 provides that:

No contract for the sale of land, or the lease thereof for more than one year, shall be enforceable unless the contract or some note or memorandum thereof be in writing and signed by the party to be charged thereby, or by his agent. But the consideration need not be set forth or expressed in the writing, and it may be proved by other evidence.

“A memorandum in writing, relied on to take a contract out of the operation of the statute, must contain every essential element of the agreement, except it need not state the

consideration.' Point 2, Syllabus, Bradley Co. v. Moore, 91 W.Va. 77, 112 S.E. 236." Harper V. Pauley, 139 W.Va. 17, 21, 81 S.E.2d 728, 731 (1954) "The rule requiring certainty as to every essential element of such a writing requires that the description of real estate contained in such a writing be reasonably certain." Id. See also, Rhodes v. Wilkins, 83 N.M. 782, 784, 498 P.2d 311, 312 (1972), wherein the court held that the description was insufficient. In that case "the description was that of approximately 1.862 acres within a ten acre tract. There was no description in the contract of any particular 1.862 acres; there was no reference in the contract to any data in which these 1.862 acres are described; and there was no reference in the contract to any means or data by which these 1.862 acres could be identified." Id. Your Fiduciary Commissioner finds that the Agreement does not sufficiently describe the realty that is the subject thereof to remove the agreement from operation of the Statute of Frauds. Therefore, your Fiduciary Commissioner finds that the Agreement is unenforceable.

11. The Claimant argues that to deny his claim would result in the unjust enrichment of the Estate and its beneficiaries. This argument is based on the allegation that the Claimant provided value to the decedent's husband in 1975. However, Claimant has provided no evidence to corroborate this assertion, other than the recitals in the Agreement signed by the wife of the party to whom the value was given thirty-one (31) years after the alleged delivery of the value. The Estate has no knowledge of the alleged assignment of the life insurance policy and therefore, denies that it occurred. Your Fiduciary Commissioner finds that the Claimant has not met its burden of proof to show that value was received by the Estate which would entitle Claimant to prevail on a theory of unjust enrichment.

12. Your Fiduciary Commissioner Finds and Recommends that the claim be DENIED on the grounds that the Agreement does not satisfy the Statute of Frauds, W.Va. Code § 36-1-3, and is therefore, unenforceable.

CONCLUSION

THEREFORE, It is hereby RECOMMENDED to the County Commission that the claim be DENIED.

The undersigned Fiduciary Commissioner attests that he has mailed a copy of all the papers and matters filed with the County Commission herein to the following interested parties: Carmela M Cesare, Arnold, Cesare & Bailey, PLLC, 117 E. German Street, P. O. Box 69, Shepherdstown, WV 25443, and William T. Rice, P. O. Box 2354, Martinsburg, WV 25402, by United States Mail, postage prepaid and securely affixed on the 9th day of June, 2009, and have held the same in his office for at least ten (10) days.

Respectfully submitted, this 19th day of June, 2009, by:



David A. DeJarnett, Fiduciary
Commissioner for Jefferson County, West Virginia

This Findings and Recommendations of the Fiduciary Commissioner upon Claim by Crawford, was this 23 day of July, 2009, presented to the Commission for confirmation, along with any and all exceptions made and filed by interested parties and it appearing to the Commission that this estate was referred to said Fiduciary Commissioner, that said findings and recommendations after its completion remained in his office for at least ten (10) days for exceptions and no exceptions were taken thereto, and the Commission perceiving no just grounds for exceptions, the said Findings and Recommendations are EXAMINED, APPROVED, CONFIRMED and ORDERED recorded.



President of the County Commission of Jefferson County, West Virginia



In 1975, my father (Fred J. Crawford) was trying to secure money to purchase a tract of land in Jefferson County, West Virginia. From what I recall he needed in excess of 40% of the land value to secure a loan on undeveloped land. After exercising all of his other options, he approached me and ask me if I would be willing to sign over my life insurance policy to him towards the down payment. The land was a 38.24 acre tract of land recorded in the office of the clerk of the county court of Jefferson County, West Virginia, in deed book 392 at page 141, then selling for \$25,000.00, or around \$653.77 per acre. Dad told me that the value of my life insurance policy, which I believe was around \$1,300.00, would buy me 2 acres, but he could not deed me the acreage, that it could not be divided in plots of less than 5 acres. However, he would, in return, hold 3 acres available for me to purchase at cost (approximately ~~\$653.77~~ per acre) at any time I chose. He stated "you never know, you may want to build there someday." (This was never put in writing, however, my Father was a man of his word) My Mother was also aware of this arrangement. My brother (Fred G. Crawford) and my sister (Evon E. Williams) were both given there life insurance policies, which they used towards a down payment on their first home from what I have been told. My policy, however, was used to secure acreage in West Virginia. By the time that my father had passed away in 1990, I had never opted to exercise this option. As of May, 2006 I turned 52 years old. A lot has happened in those years, and I would like to exercise my options to purchase the additional 3 acres at original cost as promised, and have the total 5 acres deeded in my name. Since the passing of my Father in 1990, all property, including the land became the property of my Mother, so I am hereby making this request of my Mother (Elva N. Crawford). I would like to add that no matter how small or insignificant this purchase price may sound in the year 2006, it was not so in the early seventies, and without my additional money that came from my life insurance policy, there would be no land to discuss. I would also add that this amount was very useful to my brother and sister as a down payment on their first home, whereas I had to obtain my down payment for my first home by other means so my Father could own this land. This was an investment option that was offered to me, and which I accepted. I am willing to pay for the survey cost and for the closing cost on this 5 acre tract so it will cost my Mother nothing. This is simply closing the agreement between my father and myself from some 30+ years ago. By signing this statement I agree to purchase, and my mother agrees to sell and deed a total of 5 acres from her name into my name for the total amount of \$1,961.31. In the event my mother (Elva N. Crawford) has exhausted her assets and should need the proceeds from this land, I will give as gift back to her.

I agree to these conditions:

Carroll Michael Crawford

Carroll Michael Crawford

Elva Nellie Crawford

Elva Nellie Crawford

State of Maryland

County of Washington

Witnessed before me the above Carroll M. Crawford and Elva Nellie Crawford

this 13 day of July, 2006.

[Signature], Notary Public

My commission expires: 7-31-07

WENDY N. KOONTZ
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 31, 2007

THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA

IN RE: The Estate of Elva Nellie Crawford

BRIEF IN RESPONSE TO CARROLL M. CRAWFORD'S CLAIM AGAINST THE
ESTATE OF ELVA NELLIE CRAWFORD

Nature of Proceedings

Carroll M. Crawford has made a claim against the ancillary estate of Elva Nellie Crawford seeking to enforce a writing dated July 13, 2006 which Carroll M. Crawford drafted. The writing dated July 13, 2006, purports to sell five acres of real estate located in Jefferson County West Virginia and owned by Elva Nellie Crawford to Carroll M. Crawford who had power of attorney over Elva Nellie Crawford at the time the writing dated July 13, 2006 was executed.

Argument

Elva Nellie Crawford died July 7, 2007 the sole owner of 38.24 acres of real estate in Jefferson County WV. The will of Elva Nellie Crawford states that the 38.24 is devised to her three children in equal shares. Since the writing of July 13, 2006 is not enforceable against the estate of Elva Nellie Crawford the 38.24 acres must be devised according to her will.

IMPOSSIBILITY OF CONTRACT

The writing of July 13, 2006 prepared by Carroll M. Crawford is not enforceable against the Estate of Elva Nellie Crawford because it is impossible for the terms of the writing to be legally carried out. The writing purports to sell a 5 acre parcel to Carroll M. Crawford. It is not possible for the estate of Elva Nellie Crawford to sell 5 acres of land to Carroll M. Crawford, and to evenly divide the 38.24 acres of land between the three heirs. Therefore performance of any obligation to sell 5 acres to Carroll M. Crawford must be excused.

As Carmela Ceasare, counsel for Carroll M. Crawford pointed out in her brief, the Jefferson County WV zoning ordinance states that in a rural district, a property owner may create one lot for every ten acres. The 38.24 acre lot may only be divided into three separate lots. Luckily the estate of Elva Nellie Crawford has three beneficiaries which would allow each beneficiary one lot. Carroll M. Crawford seeks to purchase a 5 acre lot. If the estate of Elva Nellie Crawford sold a 5 acre lot to Carroll M. Crawford then the estate would only be legally allowed to divide the 38.24 acres into two additional lots. The estate of Elva Nellie Crawford is required to distribute the 38.24 acres equally to the three heirs of Elva Nellie Crawford's will. Therefore, the writing to sell 5 acres to Carroll M. Crawford cannot be legally carried out by the estate of Elva Nellie Crawford without

violating the Jefferson County WV zoning ordinance and making it impossible to divide the 38.24 acres equally among the three heirs.

It should be noted that the writing of July 13, 2006 purports to sell 5 acres to Carroll M. Crawford. It does not grant Carroll M. Crawford any monetary equivalent. Therefore, since it is not legally possible for the estate of Elva Nellie Crawford to both convey the 5 acres and to also carry out the terms of the will of Elva Nellie Crawford, the writing of July 13, 2006 cannot be enforced against the Estate of Elva Nellie Crawford.

A contract to do an impossible thing is nudum pactum. Also, where the obligation itself is unlawful and cannot be performed, such performance should be excused, provided the contract is divisible and the remainder of the contract is lawful. Michie's Juriprudence Contracts § 69 Impossibility. citing Paramount Famous Lasky Corporation v. National Theatre Corporation, 49 F.2d. 64(4th Cir. 1931). Where the impossibility of performance is due to domestic law,...the promisor will be excused unless he or she either expressly agreed in the contract to assume the risk of performance whether possible or not, or the impossibility was due to the promisor's fault. Michie's Juriprudence Contracts § 69 Impossibility. Citing Housing Authority v. East Tennessee Light & Power Company 183 Va. 64, 31 S.E.2d 273 (1944); Citizens Home Insurance Company v. Glisson, 191 Va. 582, 61 S.E. 2d 859 (1950).

Nothing in the writing of July 13, 2006 mentions an assumption of the risk of performance. Nothing in the writing of July 13, 2006 mentions anything about zoning or land restrictions of any kind. Any obligation that the estate of Elva Nellie Crawford might have to comply with the terms of the writing of July 13, 2006 must be excused due to impossibility of performance caused by the institution of the zoning ordinance in Jefferson Count West Virginia.

NO PROPERTY DESCRIPTION

The writing of July 13, 2006 is defective and not enforceable because it contains no property description and is therefore too vague and indeterminate to be enforceable. The writing of July 13, 2006 purports to agree to sell 5 acres out of the 38.24 acre parcel. Which 5 acres is to be conveyed is not specified in any way shape or form in the writing of July 13, 2006. No testimony or evidence was given to specify which 5 acres was intended to be conveyed. It is therefore not possible for the Estate of Elva Nellie Crawford to convey 5 acres of real estate because there is no indication as to which 5 acres the writing of July 13, 2006 purports to convey and no testimony or evidence to indicate the location of the 5 acres. The writing of July 13, 2006 therefore is not enforceable and is fatally defective because it fails to identify the location of the 5 acres.

We have previously stated that a writing, to be sufficient under a statute of frauds, must in some way refer to the terms of the agreement that is sought to be enforced.

Every agreement required by the statute of frauds to be in writing must be certain in itself or capable of being made so by reference to something else, whereby the terms can be ascertained with reasonable certainty.

Syllabus Point 2, in part, *White v. Core*, 20 W.Va. 272 (1882). *Accord*, Syllabus Point 5, *Timberlake v. Heflin*, 180 W.Va. 644, 379 S.E.2d 149 (1989); Syllabus, *Harper v. Pauley*, 139 W.Va. 17, 81 S.E.2d 728 (1953). By "certain in itself," we mean that within its four corners the writing must contain or refer to the basic terms of the agreement:

It is essential for the memorandum relied on to take the contract out of the operation of the statute [of frauds] that it contain every essential element of the agreement, except under our statute it need not state the consideration. In all other respects it must be a valid common law contract, having the element of certainty. Of course, that is certain which may be made certain

Milton Bradley Co. v. Moore, 91 W.Va. 77, 80, 112 S.E. 236, 237 (1922).

'Every agreement required by the statute of frauds to be in writing must be certain in itself or capable of being made so by reference to something else, whereby the terms can be ascertained with reasonable certainty. And in contracts for the sale of lands the court may go outside of the writing for the purpose of identifying and ascertaining the land sold, where general words of description capable of being made certain are used in the writing.' Point 2, Syllabus, *White v. Core*, 20 W.Va. 272." Syllabus, *Harper v. Pauley*, 139 W.Va. 17, 81 S.E.2d 728 (1953).

The writing of July 13, 2006 lacks any description of which 5 acres is attempts to convey and the writing of July 13, 2006 is deficient because within its four corners it does not describe the 5 acres or refer to anything else that might describe which 5 acres it refers to. Words in the contract, not mere circumstances outside it, nor the relation of the parties to the land, form an indispensable element. *Oil Co. v McCormick*, 68 W.Va. 604, *Crawford v. Workman*, 64 W.Va. 10.

The writing of July 13, 2006 contains no property description to identify the 5 acres of land and nothing on which to base any admission of extrinsic evidence for that purpose. In short extrinsic evidence cannot supply a description of the real estate where a description does not exist. The estate of Elva Nellie Crawford must be excused from conveying 5 acres because the 5 acres is not described. The estate of Elva Nellie Crawford cannot determine which 5 acres the writing of July 13, 2006 might refer to which makes it impossible to convey the correct 5 acre parcel. The writing of July 13, 2006 must therefore be held to have no force and effect or claim against the estate of Elva Nellie Crawford.

VIOLATION OF FIDUCIARY DUTY

Carroll M. Crawford violated his fiduciary duty to his mother Elva Nellie Crawford when he had his mother sign the writing of July 13, 2006, a writing that purported to sell 5 acres to Carroll M. Crawford for the absurdly inadequate price of \$1,961.31. Carroll M. Crawford took power of attorney over his mother Elva Nellie Crawford on June 30, 2006. Carroll M. Crawford then had his mother sign a writing that

he drafted which purported to sell 5 acres of land in Jefferson County to Carroll M. Crawford. ~~Carroll M. Crawford~~

A power of attorney is a written instrument by which one person appoints another as his agent or attorney-in-fact and confers upon him authority to perform certain specified acts. 3 Am. Jur. 2d *Agency* § 23; 2A C.J.S. *Agency* § 150. A power of attorney creates an agency and this establishes the fiduciary relationship which exists between a principal and agent. In Syllabus Point 1 of *Sutherland v. Guthrie*, 86 W.Va. 208, 103 S.E. 298 (1920), we set the following standard of conduct for an agent:

"In the conduct of his principal's business an agent is held to the utmost good faith, and will not be allowed to use his principal's property for his own advantage, or to derive secret profits or advantages to himself by reason of the relation of principal and agent existing between him and his principal."

Essentially the same rule was expressed in *Kersey v. Kersey*, 76 W.Va. 70, 85 S.E. 22 (1915), where one brother had obtained stock from another brother in a confidential relationship:

"It is elementary that one partner must exercise scrupulous good faith toward the other in all matters within the scope of the partnership. That principle applies as well to other similar confidential relations." [76 W. Va. at 79, 85 S.E. at 25]

Accord, *Moore v. Turner*, 137 W.Va. 299, 71 S.E.2d 342 (1952); *Gaston v. Wolfe*, 132 W.Va. 791, 53 S.E.2d 632 (1949); *Laing v. Crichton*, 110 W.Va. 3, 156 S.E. 746 (1931).(fn2)

There is a presumption that Carroll M. Crawford committed fraud when he entered into the writing of July 13, 2006 because he had power of attorney over his mother and he greatly benefitted from the transaction.

A corollary to the fiduciary principle is the rule that a presumption of fraud arises where the fiduciary is shown to have obtained any benefit from the fiduciary relationship, as stated in 37 Am. Jur. 2d *Fraud and Deceit* § 441:

"Thus, if in a transaction between parties who stand in a relationship of trust and confidence, the party in whom the confidence is reposed obtains an apparent advantage over the other, he is presumed to have obtained that advantage fraudulently; and if he seeks to support the transaction, he must assume the burden of proof that he has taken no advantage of his influence or knowledge and that the arrangement is fair and conscientious...."

Accord, 37 C.J.S. *Fraud* §§ 2 and 95.

We adopted a virtually identical rule in *Work v. Rogerson*, 152 W.Va. 169, 160 S.E.2d 159 (1968), where three individuals entered into a declaration of trust which

provided for equal sharing in profits from the sale of lands purchased at delinquent tax sales:

"There is no question but that the defendant Moore was in a fiduciary capacity when the land in question was sold, when the decrees of confirmation were entered, when the declarations of trust were executed and the final decree obtained and in such cases of fiduciary relationship where there may be indication of fraud, a presumption of fraud arises and the burden of going forward with the evidence rests upon the fiduciary to establish the honesty of the transaction. 37 C.J.S. Fraud, § 95; 8 M.J. Fraud and Deceit, § 56;

Atkinson v. Jones, [110 W.Va. 463, 158 S.E. 650 (1931)] *supra*; *Nicholson v. Shockey*, [192 Va. 270, 64 S.E.2d 813 (1951)] *supra*. See *Campbell v. Campbell*, 146 W.Va. 1002, 124 S.E.2d 345 [1962]. [152 W. Va. at 185, 160 S.E.2d at 169]

In Syllabus Point 1 of *Atkinson v. Jones*, 110 W.Va. 463, 158 S.E. 650 (1931), we said: "[I]n a case where a fiduciary relationship exists and an inference of fraud arises, the burden of proof is then on the alleged feisor to establish the honesty of the transaction."

Nicholson v. Shockey, 192 Va. 270, 64 S.E.2d 813 (1951), cited by this Court in *Work, supra*, involved facts similar to those of the present case. There, an attorney representing his mother in an eminent domain case obtained a settlement of \$16,000. He placed one-half of this money in a joint savings account in their names with right of survivorship. Upon her death a few months later, his brothers and sisters brought an action against him. They claimed he obtained the money by virtue of a confidential relationship giving rise to a presumption of fraud. The court agreed, stating:

"But the presumption of fraud or undue influence which casts the burden of proving the *bona fides* of the transaction upon the appellee, Harry A. Shockey, is not dependent upon the existence of the relation of attorney and client between him and his mother. The rule is not limited to attorneys at law. It springs from any fiduciary relationship, and when such relationship is found to exist, any transaction to the benefit of the dominant party and to the detriment of the other is presumptively fraudulent. The same high standard of good faith and loyalty is required of an agent to his principal as of an attorney to his client..." [192 Va. at 277-78, 64 S.E.2d at 817-18]

The *Nicholson* court went on to review the evidence and concluded that the attorney had not overcome the presumption of constructive fraud by clear and satisfying evidence:

"But here the burden was on the appellee [attorney] to overcome the presumption of constructive fraud by clear and satisfactory evidence. Such degree of proof means something more than a mere preponderance of the evidence. 32 C.J.S., Evidence, § 1023, p. 1059; 20 Am.Jur., Evidence, § 1253, pp. 1103-5." [192 Va. at 282, 64 S.E.2d at 820]

The Kanawha Valley Bank v. Friend 162 W.Va. 925; 253 S.E. 2d 528.

A presumption of fraud therefore arises around the writing of July 13, 2006 since there was a fiduciary relationship between Carroll M. Crawford and Elva Nellie Crawford. Carroll M. Crawford benefited from the writing of July 13, 2006 to the detriment of Elva Nellie Crawford. Carroll Crawford had his mother sign a writing that sold 5 acres of valuable real estate to him that was appraised at nearly \$10,000.00 an acre for the absurdly low price of \$392 an acre. (See Attached Appraisal)

UNDUE INFLUENCE

The writing of July 13, 2006 should be voided because Carroll M. Crawford had undue influence over his mother Elva Nellie Crawford in having her sign the writing of July 13, 2006. Elva Nellie Crawford was diagnosed with dementia by her physician Dr. Vincent Cantone MD who indicated that he did not feel that Elva Nellie Crawford was competent to make her own decisions. (see attached letter from Dr. Vincent Cantone) testimony by Fred Crawford and Evon Williams the son and daughter of Elva Nellie Crawford indicated that they believed that their mother Elva Nellie Crawford was not mentally capable of understanding a written contract at the time she allegedly signed the writing of July 13, 2006. Elva Nellie Crawford had dementia and poor eyesight and an inability to remember things from one day to the next. Weakness of mind, connected with circumstances of suspicion, the transaction will be presumed to have been brought about by undue influence, and will be set aside. *Fishburne v. Ferguson*, 84 Va. 87, 4 S.E. 575.

Less evidence is required to establish incompetency where a grantor is aged, and enfeebled in body and mind. *Hardin v. Collins*, 125 W.Va. 81, 23 S.E.2d 916. In the opinion in the *Collins* case, page 87 West Virginia Reports, the Court quoted with approval a statement from 26 C. J. S., Deeds, Section 54, page 268, as follows: "Inadequacy of consideration is persuasive, although not conclusive, evidence of mental incapacity, and where mental weakness and inadequacy of consideration co-exist they may together furnish ground for invalidating a deed." In the same section of 26 C. J. S. it is also stated: "Where in addition to mental weakness of the grantor it further appears that inequitable circumstances attended the execution of the deed, the courts will the more readily intervene to set it aside." See *Morris v. Williams-Garrison*, 99 W.Va. 140, 128 S.E. 78.

DELENA KADOGAN, et al. v. CHRISTOPHER C. BOOKER, et al. 66 S.E. 2d 297, 135 W.Va. 438.

It is plain from the circumstances of this matter that Elva Nellie Crawford was infirm in mind at the time that her son Carroll M. Crawford drafted a writing and had Elva Nellie Crawford sign it. The writing of July 2006 was drafted by Carroll M. Crawford and it benefitted him by getting his mother to sell 5 acres of valuable real estate for an inadequate consideration. This was done at a time when Carroll M. Crawford had power of attorney over Elva Nellie Crawford. All of these factors support the conclusion that Carroll M. Crawford had undue influence over his mother at the time Carroll M. Crawford had her sign the agreement to sell him 5 acres of valuable real estate.

The writing of July 13, 2006 should therefore be held to be void and of no effect.

The writing of July 13, 2006 is not enforceable because the alleged agreement was never closed on in a reasonable amount of time. Almost one year after the writing of July 13, 2006 Elva Nellie Crawford died on July 8, 2007. During that time no steps were taken to complete the conveyance of 5 acres and the delay was wholly unreasonable. "Time for compliance is generally not of the essence of a contract for the sale and purchase of land. A reasonable time is generally implied. If the parties would make time of the essence, they should so stipulate in the contract." Syllabus point 2, *Collins v. Thomas*, 87 W.Va. 597, 105 S.E. 897 (1921). The passage of almost one year is not within a reasonable time in this situation to close on the writing of July 13, 2006 and therefore it is not enforceable.

Therefore, Elva Nellie Crawford died July 7, 2007 the sole owner of 38.24 acres of real estate in Jefferson County WV. The will of Elva Nellie Crawford states that the 38.24 is devised to her three children in equal shares. Since the writing of July 13, 2006 is not enforceable against the estate of Elva Nellie Crawford the 38.24 acres must be devised according to her will.

Oct.31,2012

Mike,

I am writing this letter to attempt to clear up a few issues concerning the sale of the land. I first of all want to let you know where Gary and I stand. There have been way to many letters and phone conversations concerning this matter. I'm attempting to type and print this letter. I am having problems with my printer so in the event that I'm unable to complete this I will have to hand write. I would like to start by letting you know, so you aren't so concerned; Gary and I both have a computer, printer as well as an email account. We are not living in the dark ages, as you have suggested. I suppose you have never considered the fact that we don't want to correspond by email. We have both been cursed, ridiculed and insulted for years. It seems as though it has been more so Gary, than me. In the past we both tried discussing the settlement of this estate with you. We have tried phone calls as well as letters, finally resulting in going to court with lawyers. Gary continued to try I on the other hand gave up years ago. I refuse to spend even one more day of my life trying to reason with you. Mike, the last letter that I wrote, I believe that I told you how I felt. I don't hold bad will toward anyone; but there comes a time when you know when to walk away and not look back.

Now to address the issues I'm writing about. There is nothing more that Gary and I want, than to sell the land. First of all you need to come to the realization that you did not make it possible for Mom and Dad to buy the land. Even after going in front of a judge to hear all of the evidence and make a decision; you still refuse to let it go. I looked in to listing the land shortly after Mom's death, and had the realtor mail you a copy of the contract to look over and even tried to call and talk to you. That of course did not work and he was told off and hung up on. We found out shortly there after that papers had already been filed at the Jeff. Co. Courthouse and so began the next several years in and out of court from Md. To WV. Never at anytime, have we ever said we didn't want to sell this property. We have asked you on many occasions to come to some kind of an agreement. The land was finally listed by you. Even though I would never have chosen the realtor that you did, I was just glad we were finally moving forward. I guess there is something to that saying "you only get what you pay for". Any other realtor would have wanted a higher percentage to list it, and would never listed for that price. Now you make the comment that WE must have picked the wrong realtor. Mike, we didn't have any say in it. The last that I've heard in a letter you wrote to Gary is that you want to list the land on line. I was understanding that we are to send you X amount of dollars and that is the only cost we will have. I am not stating the exact amount or the actual process because you will swear that Gary got everything mixed up, or that I didn't understand. I assure you that I was read every word of the letter, and I do understand. We are both in agreement that we want the land listed with a reputable realtor. Neither of us are concerned about the percent of interest they will charge. They are all pretty much comparable. We will not send any money for you to list this land. We will on the other be glad to get a new appraisal and split the cost. Land as well as home values have dropped terribly, as you know, or maybe not. Peoples homes are worth half of what they paid for them just five years ago. I feel that by having an appraisal of the property is going to be the only way to move forward. It is

Exhibit
8

really pointless to list this land at the price it appraised for years ago. When you receive this letter, I don't want a nasty letter in return. I am not writing to antagonize you in anyway. We need to move forward with this It needs to be put in a realtor's hands and when and if it sales the money needs to be put in the estate account; that was set up at the time of Mom's death. At the closing , the money will be dispersed accordingly. If you would like to call and obtain a contract with a good realtor, and arrange for a appraisal. Please do so. The sooner the better. Mike, please don't take this as a threat, it isn't meant that way. Gary has contacted his attorney concerning some alternatives in selling the land if we can't come to an agreement. He advised him that this can be turned over to the court. It would first be appraised and try to be sold if not it will go at auction for no less than 75% of the appraised value. This will cost us about 5,000.-6,000. If you contest it then it will be a lot more. We would be looking at possibly \$20,000. Or more. I think we all want the same thing here and that would be to move this land and get on with our lives. This isn't going anywhere..I support Gary in this, I want to sale the land, however that has to be done The land sets in a very bad location. There isn't any road frontage.. The only access is a one lane graveled right away. It isn't marketable to a builder, and because of where it sits it is going to take a certain type of person that would want to live there. If you are not willing to list the land or let one of use list it , then Gary will move forward with this in the Spring. There just isn't anything left to say accept that it is time to move on.

Evon

Dicki and Gary,

3/16/2013

You couldn't have just written a simple letter and ask me what I thought about listing the land, you have to stir things up again, and even complain about too many letters of which you have had no part. As a matter of fact you haven't had a part in anything constructive. I am going to address this B.S. with you for the last time, so don't ever send anything to me again unless it has to do with the sale of the land. Anything else will go into the trash where it belongs. OK, Starting from the top, Dicki the name above is what I have called you all my life, and I will no longer make an effort to call you what you want to be addressed by, as I have no respect left for you, and you most certainly do not deserve any extra effort on my part to call you by the name you want to be addressed by now. As per this letter I received from you, if you gave up years ago, why are you writing me now? Are you now to be the WV contact? Or is it just this one letter to stir things up again? I don't think you want to get this property sold, I think you just want to keep things stirred up until we are all dead. You manage to rehash years within the first paragraph. As per you wanting to clear a few things up, you should start with getting your facts straight. First, there is nothing in this letter that even remotely attempts to clear anything up, it is the same old lies and misinformation that I have listen to for years, with a few new ones added. Second, what exactly is there to clear up? I want nothing to do with you. You have major issues that you need to deal with, and they don't involve me. I will say that it takes some nerve on your part to tell me that you have been cursed, insulted, or ridiculed, big deal, get over it. After what you two have done to, and taken from me. However, it takes even more nerve to now change the course of events so you can eliminate taking any responsibility for your actions.

For the record being in and out of Court from MD. to WV. was started by you in 2006 while Mom was still alive. You had taken me to Court 2 times and had filed two more, a total of 4 times that charges were waged against me, by the time I had filed papers for my land in 2008, and this does not include calling Adult Protection Services while I was taking care of Mom, something that you wanted left out of, your answer was "I don't care what you do with her" plus I was working to make her house livable, what did you do? I got no help there either. Nor does this address what has been said and done by you in an effort to destroy my character and reputation, to which it has taken me years to discover the damage you have caused and how it was accomplished, from the scope of which I still have not recovered, and you need to be held accountable. Had I seen your true face long ago, we would be splitting 33.24 acres. I would have had my investment out of there while Dad was still alive upon one of the many occasions he mentioned it to me, as well as did Mom. Honestly, your greed, deceit, lies, and dishonesty sickens me to the core. You are nothing close to the person that I believed you to once be, you use, and manipulate people. It infuriates me when I think of all that you two have cost me, Mom, and Dad with your lies. All that you have been given, and all you know how to do is take, and try to get more. All of your actions have been self motivated and nothing more. I don't know what you think you are entitled to up and above me, but any attempt on your part to take anything above 1/3 of the remainder of this Estate will be stopped, and dealt with

Exhibit
9

appropriately. Be very thankful that you are getting that, this time it is my money you are screwing with. You have already gotten more than you deserve, or were entitled to. Not including my investment in the land in WV., you have come out at least 10 to 12 thousand dollars ahead in MD. at one hell of a cost to me. John Cline had nothing on either of you. Maybe you didn't know why the Will was written the way it was. If you wanted to clear anything up, you should have started with the words, Mike I am sorry for what I have done, and taken from you, and I want to make it right. However, I don't believe you are capable of remorse, I truly believe you are a sociopath. With all my heart and soul I believe it.

I never believed either of you were so low as to do the things you have done. To stand and tell medical staff that I had a drug problem because I have to take prescription pain medication, that I was dangerous, not safe to be with my Mother, and worse yet to say this in front of Mom in an effort to sway even her opinion. Gary, you say that Mom looked at you like she didn't know who you were? Or that she glared at you. She knew who you were, and she knew what you were, and she knew what you had done. In fact, she knew a hell of a lot more than you think or gave her credit for. You make me sick to my stomach, both of you. It is probably better to lie to yourself than to accept what you have done, isn't it. She made me P.O.A. because of the shit that you did to her. She ask me that she "never have to go back to that quack (Cantone) again," then you side with him and make her sign papers that she wanted him. Then you take me to Court and claim that I was interfering. I was sole P.O.A. acting on her request, and Cantone knew it. It was you who was interfering, you would never have stopped. But I didn't know just what was going on behind the scenes then, but I do now. You can believe Cantone was looking out for himself. I won't get into that now either.

Don't you dare tell me to come to a realization on something that you know nothing about. You were not there! Furthermore, there was only one issue in the case filed before the acting Fiduciary Commissioner (not a Judge) that caused my loss, and this is very questionable considering the charge was unjust enrichment. None of your claims held water. As of this date the case has not been presented to a Judge or Jury. Which you'll be delighted to know that I have been informed that there is another way to approach this issue in a civil suite, if I care to, since there are no time restraints on this contract. It is also quite interesting that the acting Fiduciary Commissioner was in the same law firm as your lawyer, among other things. Some may call this a conflict of interest. You like lawyers and Courts so much, Keep pushing.

I am not going to go through this again with you, not here and now. You know what all you have done against me, and if you don't, than you are in worse condition than I thought you were. Going forward I refuse to address, answer, or reply to any more of your lies or misinformation, and that is exactly what the majority of your letter consist of. There is nothing to discuss with you, however, if you want to take it to Court, we will put it all on the table then. As per telling me where you and Gary stand, I don't care, this is not about you and Gary, and I am tired of reading it time and time again as to where you both stand on issues that you have failed to

include my interest both as a Co-Executor, and an Heir to this Estate from the beginning. I take responsibility for anything that I have said or done, none of which was said or done without provocation. Through all of the Hell that you have put me through, I have made one ugly remark, and that my response to something that was said concerning my late Wife, though you fail to mention what you say or do, even to this day. I have Not lied about anything. I don't need to. I don't make statements pertaining to things that I don't know about, or wasn't witness to. If you truly wanted to clear anything up you need to start with taking responsibility for your actions, but you are as unable to do this, as you are to deal with the truth. As for my actions, I have not wronged either of you, and most definitely not ever my Mother, though you had led others to believe this, and worse about me, and this is called slander and defamation. This has all been at my expense, just to have your way. You have used the same lies in 2 states. Any Court action taken by me up until this point was (1) to defend myself against your lies, or (2) to come after what was mine, ie. my late wife's jewelry, and my investment in the land in WV. After this letter containing more of the same, and renewed threats of Court, I felt it was best to contact a lawyer. There are lines that you two have crossed that are not only unethical, they are illegal, and you are going to hear another legal term that I don't believe you have heard yet.

For the record, my goal has been to get the best price for the lowest cost to the Estate in a reasonable time period, and have the remainder of the Estate divided equally. That is the duty of an Executor. We had a very good listing with a reputable realtor, (combined real estate experience of 47 years, 23 years in West Virginia) with a 4% commission that I worked very hard on, because you see, unlike you and Gary stated in this letter, I do care. The real issue here once again is control. If I were dealing with someone with even an ounce of integrity they would be thanking me, and asking me how I would like to proceed, unfortunately I have to deal with someone like you. After finally getting the land listed, it lasted about 5 Months. I believe that it may have have been sold by now had you just re-listed the property, but you called that "a waste of time," what he hell is this? You Dicki have to continue to lie, and instigate, that is all you have done from the beginning. You Gary, aside from repeating these lies, have to control everything. These two character flaws combined has created a monster that fuel each other, and that has to change. Your actions thus far has cost both Estate losses, and an even greater loss to me in many ways, and it goes to say, that "you can only kick a dog so many times." This is the same type of action that you pursued in Maryland that cost a loss to the Estate of well over \$50,000.00, and an even greater cost to me personally, but I won't get into that now either. Going forward you can continue to lie and twist the truth all you want, that is expected, and holds true with every new letter, but remember that everything is all well documented. Some of which I have only recently discovered. Actually the most important, the ones that tie it all together. This is called discovery. Also, remember that despite my efforts to get this property listed, you are the ones that caused us to lose that listing.

First you complained it was priced too high at \$350,000.00, but it was Gary who wanted to start the listing at \$375,000.00 (documented) but the best he could negotiate with a realtor was

\$275,000.00, at a 5% commission (documented). That is when I was told if I could do better to get the listing. Yes, you had a say in the listing. I sent a package containing comp sales, current listings, and a 4% commission contract at \$350,000.00, and all parties signed. I had to negotiate for some time with the Brawner to get this listing, something that Gary would later refer to as "affording me the opportunity to list it." If you didn't read it, that is your problem. You wait until the real estate market is on an up-swing with both sales and pricing, then you say drop the price by \$35,000.00 (10%) or we won't re-list. However, you didn't contact me, you contacted the realtor. Dave contacted me about your decision, not mine, (documented) because you don't feel you have to discuss it with me, it was that same old 2 against one logic that you have followed from the beginning. I told Dave it was a family issue at this point, but as per you, the decision was made. Never discussed with me, and nothing provided to justify such a drastic price cut. According to you, I was to blame for listing too high, and the Brawners are not reputable for taking it at that price, further stating "you get what you pay for," and that "any other realtor would have wanted a higher percentage to list it, and would have never listed for that price." All of these "reputable realtors" had a 6 Month opportunity to show, and to sell that property when it was listed on the M.L.S., and the Internet, why didn't they? Where were they? They could have made \$7,000.00. Are you really, truly this stupid? I sold my place in California with Choice Reality at 3+1/2 % commission, other realtors were charging 6% and up. It sold in 13 days. Florida, 4%, sold in 3 Months, others charging 6% and up. Some people pay sticker price for a car, I don't, but by your logic this would make my car worth less, and the Dealer that I purchased from not reputable. The only people that pay 6 % to sell property are the ones that don't negotiate a better deal. I will give you an old saying. "It is better to keep your mouth shut and have people think that you are stupid, than to open it and prove it." How about this, "A fool and their money are soon parted." Please don't take these personal, they are just old sayings. Just like now, telling me that "you've decided." Just like always, you only contact me after a decision has been made, like with Shultz, then you tell me what you have decided, or what you want, never even as much as asking my opinion. Next you let it off of the market for nine Months while the market continues to climb, now this is a colossal waste of time, even when I offer you a better deal in which I will do all the work paying a lower commission while offering the buyer's agent a higher commission.

F.Y.I., This newest threat of a lawyer came not when I offered to do all the work for the listing, to that you agreed, of course along with the usual ultimatums, "If it doesn't sell in 6 Months, we get to..." Don't you remember? You said that I could "have Jenn call Gary if there was a problem using mail." LOL. Why should she call if you both have email? It was afterwards when I offered Gary the "opportunity to list on the Internet," and even offered my assistance. I was going to email that letter, only to discover that he didn't have Internet service, nor did you Dicki, yet you were giving me ultimatums. So the latest deal fell through when I mentioned that you two didn't have email. It was then that I received no reply for Months, until I receive this new one stating "Gary has contacted a lawyer," and "I support Gary in this." Something new here? Well, we'll see how it goes this time. Now you are ready to spend an extra \$20,000.00 to give it away

at 75% of appraised value. Not this time. Now it is important to get it right back where it was before you interfered, but at a higher commission, and extra cost, at a lower price. So once again I get a letter telling me what you two have decided, a few new lies, rehash some of the old ones, threaten me with Court action, and tell me not to take it personal, or as a threat, well ditto. You have thrown Court and Lawyers in my face one too many times, and it has all been based on one gigantic lie, and followed up with a series of lies. This time, if you make one move against me, or this Estate, I am going after everything you took from me, everything, and I really don't think you know just how much that is. You have one thing right, it is going to be costly this time, but I don't believe it is going to be within the \$20,000.00 that you have threatened me with. I don't care anymore, it is worth it to me to have you both exposed for what you are, what you have done against me, and your Mother, and to clear my name and reputation from the damage that you have caused. I would love to hear you justify some of your actions and conflicting statements over the past few years. If you can't remember what you have said, that's OK I have it all in writing, or recorded. It would seem to me that you have a choice to make, you can either work together and execute the remainder of this Will as it was written, but if you are not capable of doing that, then I would suggest that you step aside, stop instigating, stop the lies, and learn what it means to work together. Your other choice of course is go to your lawyer and follow through with your current threat. I will respond appropriately.

Your recent information only confirms what I already believe. The fact that you are so wrong about so much with the real estate market, simply confirms my belief that you do not have Internet service. Concerning your comment as to the market 5 years ago, this must be where you are getting your information from, 2008. I don't believe you have a clue as to what has happened in the real estate market in the past year, and what is expected in 2013, or what is happening in the economy. I did everything a person could possibly do to get this property listed and you not only ruin it, I am now being threatened with Court action, bring it on. I will not have you now stand and bad mouth this property the same way that you stood in Court and claimed that Mom's house "was not fit to rent, that it was in such bad condition that you would not be able to put renters in it." That was the 2nd. time you took me to Court, the 1st was when you had to get Mom back into the house that wasn't fit for renters, remember. All that house needed was a roof, I had several estimates with an average cost of about \$2,500.00, a roof over for \$1500.00 not half of what was paid in legal fees. With a new roof that house would have easily brought \$212,000.00. Of course you don't have to take my word, I had a realtor state it would bring between \$208,000.00 and \$212,000.00 with the roof it had. The time and effort that I had put into positive things like this and getting a listing, getting estimates, getting a market analyses that confirmed that price, but you gave it away and even concealed the details of the sale, even going so far as to change the auction date at the last minute, and that is called breach of fiduciary duties to the Heirs of the Estate, which was me at the time. You both got about \$6,000.00, and God knows what else, but you cheated me out of my fee for trying to do the right thing. Not to mention legal fees and Court cost. Why? Because I disagreed on the price. You lie in one Courtroom then say the opposite in the next (documented). I had a lawyer

ready to sue you both then, but there were some things I didn't know then, that I do now. To date, neither of you have dealt with the truth, maybe it's time you do, I guess we'll see what happens. This is my answer to both of you.

Since you claim that you both have Internet service, and an email account, I will proceed as if that is true. I have been forced to use mail, because "you don't want to use email." So it cost everyone extra in the form of ink, paper, envelopes, stamps (well not stamps for you, you had all of Mom's), and a lot of wasted time, all based on your wants. Well, I don't want to use mail anymore, in fact I never did, I have better more sensible ways to spend my time and money. My email address is cmdhcraw@aol.com. You don't have to provide an email address or use email, unless you want a reply. I am sick and tired of hearing what you want, or don't want, or what you have decided, and most of all what you are in agreement with each other about without considering me. Try this for a change "Hey Mike, what is your opinion on this" Like I said, it is not about you. Either this is just one more of your lies, or another area in which you have had to have total control in everything up to and including the way we have to communicate for the past 5 years. I will be interested to see which one, lies, or control. Either way, it will prove what I have been saying all along. Since you Dicki, have stated that you were done with me years ago, please don't send anything else to me, continue to work where you do best, behind people's back. At least I haven't received anything from Gary like this in awhile. I guess you are hard at it again, I remember what all you use to have to say about Gary and his family for years. I am sure he will get his chance again, after I'm gone, if it hasn't already started. To be clear, I do not favor either one over the other, I have equal contempt for both of you. I have bent over backwards to attempt to settle the remainder of this Estate peacefully. Consider this my last letter mailed to either of you, there will be no more concessions on my part. I am tired of your ultimatums. If you are not living in the dark ages, then step out into the light and act like it. If it is Court you want, then I will address your suit, and you can address mine.

Moving on, since you now state "We are both in agreement that we want the land listed with a reputable realtor," and that "neither of us are concerned about the percent of interest they will charge." I guess you are referring to commission, since they don't charge interest. Well if you two have agreed, what other choice do we have, so why didn't you leave things alone because that is exactly what we had before you ended it. Paying more doesn't mean you get more, it just means you pay more. FYI, I never made any such statement that "we must have picked the wrong realtor," this is just one more of your lies that I am so tired of. If it were true it would be in one of my letters since we don't talk, so prove me wrong, or start to admit to your many lies because that has been the problem since the beginning. You didn't care for the Brawner's so we lost a good 4% listing. Without any proof, you claim they are not reputable. You now don't want, or are not capable of doing an Internet listing. You don't care about the cost, or the commission, or \$5,000.00, to \$20,000.00 in legal fees, just as long as you get your way, and

nothing that I do is going to suite you. I am going to afford you the opportunity to get this property listed with a realtor of your choice, subject to my review and approval, the same way you afforded me the opportunity. Not Shultz, who apparently is also a liar according to what you two have said, at a commission not to exceed 4%, 2 % to go to the buyer's agent. If you can get the Brawner's to re-list, great, but I believe you screwed that up for good. Anything above 4% you two can split the extra cost, after all the time and work I put into getting this listing with a very reputable realtor at a 4 % commission, I do care. So if you write a contract at anything above 4%, also have it written in that the additional commission will be taken from your 2/3 of the Estate at closing. You have taken enough from me already, you'll not take any more. On the subject of putting money into the Estate account, and all financial obligations to the Estate being met. There is no Estate account, there is only the land that is in probate. There are no financial obligations yet, if you have been paying the taxes, which I will also address.

As per an appraisal. Since you both have Internet service it is easy to find out the property value, using comp sales, and current listings the way I explained in the package I sent you when the property was listed with the Brawner's. If you want to get an appraisal, by all means get one, and pay for it. Use some of the money that you took from me. I have already paid for one appraisal that you two once again chose, and that's enough. The property could have been listed then had you simply remembered that there were 3 Co-Executors to this Estate. More than likely it would be sold by now had it not been for you. All of my time and effort has been wasted once again so you could have your way. Regardless of what you had gotten away with up until this point, it stops now. I would have fought back long ago had I known then what I know now. This time, you start it, and I am going to finish it.

If this were your house, would you auction it at 75% of value? As a co-executor to this Estate you have an obligation to the Heirs of this Estate, just like you did in MD., and I would suggest that you make your best effort to fulfill that obligation. If you would like to auction the property that's fine, but not at 75% of value. Not after I was forced to sign the G.S.A. deal stating that we would not sell for less than 95% of the value should the deal fall through. That deal cost me thousands in lawyer's fees once again, only to be kept in the dark. I was told "I'll do to you here, what I did to you in MD." Gary had to be in total control again. This is also well documented, through my email communication with Ward Zigler to which I found out contrary to what I was led to believe by your attorney and you, that Gary was not in charge of anything, nor was he even involved in any negotiations. Not only should I have been notified of every development, I should also have been invited to attend every meeting that was held, and open to all of the land owners involved, all except me. Me, the only 1 of the 3 that put money in to the down payment of this property, the one that made it possible, while you have benefited for a life time of free heat, raised a few cattle, all of which is indeed unjust enrichment. Hell, I didn't even get to burn the wood I cut, you and your husband stole it and burned it. You have stolen from me, you have lied to and about me, you have taken time, and my rights from me, and you have pushed me for

the last time.

If you truly want to get this property listed, here is your chance to do just that, but don't expect me to now pay extra fees that you have caused because you have viewed this Estate the same way that you did Mom's P.O.A., of which there are many legal issues that need to be answered concerning laws and rights that were violated up to and after her death. By both you and your doctor friend. You have breached your duty to me more than once as an heir to the Md. Estate by relying on several lies that started in 2006, and you have spread, and used against me over and over, and I know more than you might think I do. If you instead decide that you prefer Court, you had better get out your check book, because I am to the point that if it takes my whole damned inheritance to stop you two and your lies, and make you pay for the pain and suffering that you have caused, so be it, because I believe it may just be returned to me with interest. I think it may be time for a little justice, and some long over due truth. Your choice.

One other thing, Gary you need to comply with the letter that I have enclosed to provide me with all of the tax information that was agreed upon in the letter that was sent to you when you had to be in charge of paying the property taxes, shortly after testifying in MD. Court that "He did nothing to help with the Estate, we had it all to do" However, upon my offering to take care of this, you had to do it, even to the point of documenting at the tax office, not to change the address (enclosed). As of my last payment I have received nothing. You even drove to Hagerstown to get the mail when I offered to take care of that, until you had the address changed so everything would come to you. You are obsessed with being in control of everything. Absolutely you had to be the one to control the check writing, of course this started before you even had the legal right to do so, right? There was a gray metal box that Dad had shown to all 3 of the children, that we were to go through in the event of his and Mom's death. This should have been brought up long ago, among other things we'll get to. I haven't seen the box since Mom died, I wonder what happened to that this time Gary? I seem to remember it disappearing once before when Dad died. Did you deem that you were the chosen one to take total control of that also? You have developed quite a pattern with your issues of having control over things, and it needs to be stopped, because the fact is it never should have started. It only did based on lies, and your obsessive need for control at a great cost to me and an even greater cost to my Mother. I never should have allowed it. Keep your control issues in your own house, and let it out of Mom and Dad's Estate. Please enclose a copy of the contents of the box along with the overdue property tax information. Tax information is to consist of what was requested in the letter so you could get your way again.

After reading your letter Dicki, I have decided to send my reply to both of you, because I know that you are the one who instigated this from the beginning, in 2006, maybe sooner. You are not content in your own life unless you have successfully turned one person against another, and make sure that everyone is on your side. You need professional help. The real estate information I am sending to Gary, so maybe he can start to get some truth about the housing

market instead of the B.S. that you like to spread. I'll send mainly the headlines, a dozen or so. It's all available to you on line anyway. A new one practically daily that all tell the same story of a recovery in the real estate market, even one from your own newspaper. Now once again we do not have the property listed thanks to you. I can't see where you have done one constructive thing to help sell this property and close this Estate. I have equal contempt for both of you for stooping lower than I thought either of you capable, but that is fine too because I am about to level the playing field and show you just what I am capable of when pushed too far.

What I have disclosed here is just a small portion of what you two have done against me; Mom, and this Estate based on lies, and a total lack of respect for me, and both of your parents, along with a twisted need to have total control. At this point I have proof that disproves all of your claims. You are going to just love the records; they speak for themselves. Not only do they expose 6 years of your lies; long before the Estate issues; they are just filled with you need for total control of what you wanted, and what you have decided. What a different story is told when Mom was with me and Diana stating what Mom wants or needs. That which you referred to as "holding her captive." Hey Gary, do you remember canceling my appointment for Mom to tour Loyaltan? It's kind of funny that while you were deciding that I should be removed from "Mom's" P.O.A., she had decided that I would be "Her" only P.O.A. Oh, by the way she was not incompetent then or Months later when someone claimed she was. You had better get your misinformation from someone other than Cantone this time. He has already dug himself a deep hole, just the same as you two, and he is going to have a few questions that he needs to be answered too. I have made you a very good offer here, and I would suggest that you take it, if your interest is truly in selling this property as you claim, then now is your chance, but I really don't give a damn what you do at this point. What ever the case, I will respond accordingly.

Knowingly, or unknowingly, you are about to start a major law suit with your present course of action. You can never make things right with me, but you may yet end up paying for what you have done, and that is one thing that would truly bring me closure, and your letter has pointed me right in that direction. The only way I have been able to get through the WV. Estate after what you two have taken from me, is to try my best to forget what you two and that S.O.B. have done. Lately as I have had to set and see it again, talk about it, and relieve it, all I've wanted to do is to sue both of you, and hold you both liable for what you have done and taken from me, and my Mother. If you want to see just what you can be held accountable for, go for it, because it won't take much at this point. I am going to give you both the best advise that anyone could. Go list this property as I have suggested, don't attempt to steal one more dime from me, and don't ever bring up the past to me again. I am leaving this area, and when gone, I don't ever want to hear from either of you again. I have no family, and what I did have, you have robbed me of. At this point, this is the best offer you are going to get from me..... Mike

PS Until I hear from you as to your intentions, I will continue persue the suits with my attorneys. Have a good day.

Exhibit # 10
Petitioners' Letter to the County Commission
IN RE: ESTATE ELVA N. CRAWFORD
June 14, 2013

Dear Honorable Commission,

We, Fred G. Crawford and Evon E. Williams, as Co-Personal Representatives, are petitioning the Jefferson Country Commission for the removal of our brother, Carroll M. Crawford, as Co-Personal Representative of our deceased mother's, Elva N. Crawford, estate in West Virginia.

Difficulties with Carroll M. Crawford surfaced well before the death of our mother. As our mother's health and mental condition declined, we (all three of her children) agreed there was a need for Durable Power of Attorney. Thereafter, on or about September 16, 2005, our mother Elva N. Crawford executed and signed a Durable Power of Attorney appointing each of her three children, Evon E. Williams, Fred G. Crawford and Carroll M. Crawford, jointly as "Attorneys in Fact". In June of 2006, our mother was admitted into the Washington County Hospital. While she was in the hospital, Carroll Crawford had an amended General Power of Attorney drafted, naming himself as sole Power of Attorney. Our mother signed the aforementioned document on June 30, 2006. We were never informed or notified of this change in any way by our mother. For your reference, please note the attached original "Durable Power of Attorney" and the amended "General Power of Attorney".

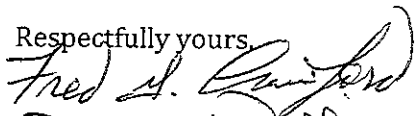

When our mother was released from the hospital she stayed at Carroll M. Crawford's home for a period of time. On July 13, 2006, Carroll M. Crawford drafted a contract for his claim for the five acres of property located in Jefferson County, West Virginia. Carroll had our mother sign the contract and had it notarized.

During the abovementioned time period, he brought a claim against Vincent A. Cantone, MD, in an attempt to have his license to practice medicine revoked. Dr. Cantone was our mother's treating physician for nearly eighteen years. The claim was denied by the Maryland Department of Health and Mental Hygiene on or about February 26, 2007. For your reference, please note the attached letter issued by the State of Maryland Board of Physicians.

These series of events are just a fraction of what we have been experiencing while caring for our aging mother and following her death. The aforementioned facts are being brought forth to show a pattern of Carroll M. Crawford's unreasonable behavior, his unwillingness to work collaboratively, as well as his dishonesty and ill intentions in regard to our mother and her estate.

As for us, we only wish to list the property with a reputable realtor at a reasonable value given the current market. We are hopeful that the property will be purchased and we can proceed with closing the estate. These problems have been ongoing for more than six years, and without Carroll M. Crawford's removal as Co-Personal Representative, we sadly do not see an end in sight. Carroll claims that he wants to sell the property, however, it must be on his terms. We have tried our very best to reason with him and unfortunately we cannot.

Respectfully yours,

Fred G. Crawford and Evon E. Williams, Petitioners