

NOTICE OF MOTION FOR ORDER PASSING ACCOUNTS # AND FOR COMMISSION

COURT DETAILS

| | |
|-------------|----------------------------------|
| Court | Supreme Court of New South Wales |
| #Division | Equity |
| #List | Probate |
| Registry | Sydney |
| Case number | |

TITLE OF PROCEEDINGS

[First] plaintiff **[name]**

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant **[name]**

#Second defendant #Number of
defendants (if more than two)

The Estate of **[name of deceased]** Date of death: **[date]**

FILING DETAILS

| | |
|---------------------------------|---|
| Filed for | [name] [role of party eg plaintiff] |
| #Filed in relation to | [eg plaintiff's claim, (number) cross-claim] [include only if form to be eFiled] |
| #Legal representative | [solicitor on record] [firm] |
| #Legal representative reference | [reference number] |
| Contact name and telephone | [name] [telephone] |
| Contact email | [email address] |

ORDERS SOUGHT

- 1 An order passing the [first/second etc] accounts of the administration of the estate of [Name of Deceased] from [date] to [date].
- 2 #An order allowing commission.
- 3 The Costs of and incidental to the filing and passing of the accounts #and of the application for commission.
- 4 Such further other orders as the Court thinks necessary

SIGNATURE

#Signature of legal representative

#Signature of or on behalf of
person seeking orders if not
legally represented

Capacity

[eg solicitor, authorised officer, role of party]

Date of signature

AFFIDAVIT

Name [Note: All executors must swear the affidavit verifying the accounts. If new trustees have been appointed include evidence of appointment]

Address

Occupation

Date

I/We [#say on oath #affirm]:

1. I am/we are the executor/administrator/trustee/s of the will/estate of the deceased (*name of deceased*), of whose will/estate the Court granted probate/administration on (*date*).

2. The following accounts contain a full, true and just account of:
 - a) all moneys that I/we have received in the Estate, or which have come into the hands of any person or persons for me/us;

 - b) all moneys that I/we have paid from the Estate, or that any person or persons has paid for me/us;

and my/our administration of the same from the date of death of the deceased [delete for 2nd and further accounts] (*date*) until (*date*).

3. The following accounts contain a full, true and just account of:
 - a) a statement of all estate assets that have come into my/our hands and remain unrealised;

 - b) a statement of all estate assets that have come into my/our hands which have been realised and subsequently reinvested; and

 - c) a statement of all estate assets that have come into my/our hands and been transferred in specie.

 - d) a statement that reconciles the balance held as shown in the accounts with the balance held in the bank account of the estate at the close of the accounts ("the bank reconciliation").

 - e) a statement of all estate assets as listed so as to identify the item numbers the item numbers of those realised with the items listed in the inventory.

4. Notice of intention to verify, file and pass accounts and apply for commission was

published on the Court's online website on *(date)*.

5. Exhibited to me/us at the time of swearing this affidavit and marked Ex-1 is a folder containing various documents, including receipts and bills. Each document is identified by its item number in the accounts. Ex-1 comprises [delete any tab that does not apply]:

- Tab A: Receipts for assets transferred in specie, and for the payment of legacies or distributions;
- Tab B: All bills for legal professional costs detailed in the accounts. [if bills total more than \$100,000, a separate table containing details of all bills should be provided];
- Tab C: All bills for other, non-legal, professional costs detailed in the accounts, eg accountancy fees;
- Tab D: Settlement statements for the sale of any real estate, including any agent's deposit statement;
- Tab E: Receipts for any disbursements which are large, unusual or require explanation. [Receipts must be produced to account for any reimbursements to the executor/s, administrator/s or beneficiaries];
- Tab F: Where the deceased operated a business, a profit + loss statement for the business as at the close of the accounts;
- Tab G: Subsidiary accounts for each of [name each beneficiary] for whom money is held on trust [eg a minor];
- Tab H: In respect of any property from which rent is derived a statement that shows the total rent received in the period covered by the accounts and a listing of all expenses incurred, the total of which is subtracted from the total rent received to show that the net rent derived. The accounts show the rent received as receipts and the expenses paid from the rent are shown as payments;
- Tab I: Any bills for professional work done during the accounts and not charged for in the accounts;
- Tab J: Evidence of the balance held at the close of accounts.

Second, Third or later Accounts

Tab K: A copy of the certificate of correctness and order for commission in the previous accounts;

The previous accounts were prepared by [person/firm].

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹

2. #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]

#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)²

Signature of witness

The Estate of the late [name of deceased]

Statement of RECEIPTS for the period from [date] to [date]

| Item # | Date received | From whom received | Description | Amount received | |
|-----------------------|---------------|--------------------|--|-----------------|-----------|
| | | | | Capital | Income |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |
| 11. | | | | | |
| 12. | | | <i>[Add additional rows as required]</i> | | |
| Total Receipts | | | | \$ | \$ |

Statement of DISBURSEMENTS for the period from [date] to [date]

| Item # | Date paid | To whom paid | Description | Amount disbursed | |
|--|-----------|--------------|--|------------------|-----------|
| | | | | Capital | Income |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| 6. | | | | | |
| 7. | | | | | |
| 8. | | | | | |
| 9. | | | | | |
| 10. | | | | | |
| 11. | | | | | |
| 12. | | | <i>[Add additional rows as required]</i> | | |
| Total disbursements | | | | \$ | \$ |
| Credit Balance | | | | \$ | \$ |
| [Add the total distributions to the credit balance = capital and income received] Total | | | | \$ | \$ |

ASSETS REALISED

| Item # | Inventory # | Detail of asset | Value realised |
|--------------------|-------------|--|----------------|
| | | | |
| | | | |
| | | <i>[Add additional rows as required]</i> | |
| Total value | | | \$ |

VALUE OF REINVESTED ASSETS

| Date of investment | Details of investment | Amount outlaid | Value at close of accounts |
|--------------------|-----------------------|--|----------------------------|
| | | | |
| | | | |
| | | <i>[Add additional rows as required]</i> | |
| Total value | | | \$ |

ASSETS TRANSFERRED

| Inventory # | Detail of asset | Transferred to | Receipt filed ✓ | Value |
|--------------------|-----------------|--|-----------------|-----------|
| | | | | |
| | | | | |
| | | <i>[Add additional rows as required]</i> | | |
| Total value | | | | \$ |

ASSETS UNREALISED

| Inventory # | Detail of asset | Value |
|--------------------|-----------------|--|
| | | |
| | | |
| | | <i>[Add additional rows as required]</i> |
| Total value | | \$ |

**BANK RECONCILIATION, that reconciles the balance held as per the accounts
with the balance held in the bank at the close of the accounts**

| | | |
|--|--|-----------|
| Capital Receipts (CR) | | \$ |
| Capital Payments (CP) | | \$ |
| Credit [or debit] Balance (CB1) | [CR – CP = CB1] | \$ |
| <hr/> | | |
| Income receipts (IR) | | \$ |
| Income payments (IP) | | \$ |
| Credit [or debit] Balance (CB2) | [IR - IP = CB2] | \$ |
| <hr/> | | |
| Balance held at close of accounts (as per accounts) | [CB1 + CB2 = Balance held] | \$ |
| <hr/> | | |
| Bank account/s: Estate of [deceased] held at [name of bank] | | \$ |
| | <i>[Add additional rows as required]</i> | \$ |
| Total bank accounts | | \$ |
| <hr/> | | |
| Plus cash in transit (if applicable) | | |
| Less unpresented cheques (if applicable) | | |
| | Balance held | \$ |

* Balance at close of accounts should equal the amount held in the bank accounts at the close of accounts

**FIGURES FOR CERTIFICATE OF CORRECTNESS OF ACCOUNTS
for the purpose of assessing commission**

| | | |
|---|---|-----------|
| Capital Receipts | | \$ |
| <i>Deduct all amounts that are non-commissionable including refunds for payments made by the executor or proceeds of realisation of reinvested assets</i> | 1. <i>[item number and detail]</i> | \$ |
| | 2. | \$ |
| | 3. | \$ |
| | 4. | \$ |
| | 5. <i>[Add additional rows as required]</i> | \$ |
| | <i>Total deductions</i> | \$ |
| Total Capital Receipts after deductions | | \$ |

| | | |
|---|---|-----------|
| Income Receipts | | \$ |
| <i>Deduct refunds of amounts paid by the executor including recovery of rate adjustments on the sale of property, refunds of insurance premiums and recovery of PAYG credits that were paid after death</i> | 1. <i>[item number and detail]</i> | \$ |
| | 2. | \$ |
| | 3. | \$ |
| | 4. | \$ |
| | 5. | \$ |
| | 6. <i>Add additional rows as required</i> | \$ |
| <i>Total deductions</i> | \$ | |
| Total Income Receipts after deductions | | \$ |