

COURT OF COMMON PLEAS OF PHILADELPHIA  
ORPHANS' COURT DIVISION

Estate of Regina Krisciunas, Deceased  
O.C. No. 187 DE of 2010  
Control No. 103584

Sur First and Final Account of Edward Kranicki, Executor

The account was called to audit February 7, 2011 **BY: Herron, J.**

Counsel appeared as follows:  
Terry L. McCallum, Esquire – for accountant  
Lewis Walder – for objectants

ADJUDICATION

Regina Krisciunas, who died on March 14, 1997, designated Edward Kranicki as executor under her Will dated March 12, 1997. On December 30, 2010, in response to a court order, Mr. Kranicki filed an account of his administration of the estate covering the period from March 14, 1997 to December 22, 2010. Objections were filed to the account and a hearing was scheduled.

At issue in this matter are two objections to the Executor's account filed by the four (4) grandchildren of Decedent: Kathryn Hall, a minor, Anthony M. Hall, Christopher Hall ("Christopher") and Kenneth Hall ("Kenneth"). All four claim that the Executor, Edward Kranicki ("Kranicki") claimed an excessive trustee fee in the sum of \$14,897 as well as an Executor's commission of \$1,500. In the second objection, Christopher and Kenneth both claim they never received their respective distributive shares of the estate.

***Background***

Decedent died testate on March 14, 1997 and letters testamentary were issued to Kranicki on March 20, 1997. Under Decedent's March 12, 1997 will, Kranicki and each of her four grandchildren received a one-fifth share of the estate; however, the will provided that the shares of the grandchildren, all of whom were then minors, be placed in separate trusts for their benefit until age 25.

On April 13, 2010, this Court awarded a citation directed to Kranicki to show cause why he should not file an account and on November 30, 2010 following a hearing on November 22,

2010, he was found in contempt for failing to file an account. The account was filed on December 30, 2010 and called to audit thereafter.

Based on the record presented at the hearings, the trustee fee of \$14,897 should be disallowed by reason of Kranicki's failure to justify what he did to earn the fee, and his failure to maintain records. When called to testify on both November 22, 2010 and March 9, 2011, he recounted several annoying and harassing contacts with Christopher and Kenneth requesting their funds for living and educational expenses and his acquiescence to their demands for early distributions prior to their 25<sup>th</sup> birthdays. He admitted failing to establish separate trust accounts, but produced bank records evidencing the establishment of separate uniform gift accounts for each minor and satisfactorily proved that the funds for two of the grandchildren are intact and appropriately accounted for: Kathryn and Anthony. Had Kranicki maintained appropriate records, these proceedings would have been unnecessary.

Kranicki satisfactorily administered the estate long ago, and is entitled to the Executor's commission claimed which is only \$1,500 on an estate with a total value of \$154,567.68. While Kranicki failed to establish the trust accounts required under the will, he did nevertheless offer credible testimony that he segregated the funds for each minor. After hearing his very brief testimony relating to his services as a trustee, this Court can find no basis to award a fee for his services. He maintained no time records, had no record of the minors' accounts, failed to file an account until after being found in contempt and offered no testimony to support his fee request. Accordingly, the sum of \$14,897 claimed as a trustee's fee shall be disallowed and awarded to the adult beneficiaries. Kathryn's one-fifth share is awarded to her minor's account.

The second objection is far more difficult to address because of the scarcity of convincing evidence offered by either party. Christopher failed to appear and upon representations of counsel is either incarcerated or has disappeared according to the other family members present. The claim on his behalf is that Kranicki failed to establish a trust account for his distributive share of the estate. This claim is denied based on Christopher's absence and the adverse inference based thereon, Kranicki's credible testimony and the bank record evidencing Christopher's withdrawal of the funds on May 23, 2009. Kranicki appeared truthful when he recounted a series of harassing telephone calls from Christopher demanding his inheritance for emergency living and educational expenses and Kranicki's agreement to accompany Christopher

to the bank where the withdrawal was accomplished.

Kenneth also claims that he never received his share of the estate and so testified. In response, Kranicki testified that Kenneth also harassed him and he finally gave into demands to pay over the funds to him for emergency living and educational expenses. Kranicki produced a PNC Bank cashier's check payable to Kenneth in the sum of \$27,096.53 dated March 24, 2009 and endorsed on the reverse side by both Kenneth and Kranicki. Kenneth claims the endorsement of his signature is a forgery. Kranicki convincingly testified to the circumstances surrounding the bank personnel requiring photo ID for both himself and Kenneth. Regrettably, no bank employees were called as witnesses by either party. This Court cannot determine which version of events is trustworthy based on the oral testimony alone, but the bank records establishing the creation of both Kenneth's and Christopher's accounts and the fact that the other two minor's accounts are intact weigh in favor of accepting Kranicki's testimony and, on this basis, Kenneth's claim is denied.

According to the accountant, Pennsylvania Transfer Inheritance Tax and additional Pennsylvania Estate Tax were paid on December 11, 1997 in the amount of \$ 9,433.16. The account shows a balance of principal before distribution of \$119,348.08 and no balance of income on hand after disbursements/distributions for a total of \$119,348.08. This sum, composed as stated in the account, together with income or credits received since the filing thereof, subject to distributions already properly made, any additional tax as may be due, and the deduction of the \$14,897 trustee fee, is awarded as set forth in the accountant's petition for adjudication and statement of proposed distribution as follows:

Income

Kathryn Hall, Minor's Account	1/5
Anthony Hall	1/5
Christopher Hall	1/5
Kenneth Hall	1/5
Edward Kranicki	1/5

Principal

Kathryn Hall, Minor's Account	1/5
Anthony Hall	1/5

Christopher Hall	1/5
Kenneth Hall	1/5
Edward Kranicki	1/5

Leave is hereby granted to the accountant to make all transfers and assignments necessary to effect distribution in accordance with this adjudication.

AND NOW, this 4th day of APRIL 2011, the account is confirmed absolutely as modified by this adjudication.

Exceptions to this Adjudication may be filed within twenty (20) days from the date of the issuance of the Adjudication. An Appeal from this Adjudication may be taken to the appropriate Appellate Court within thirty (30) days from the issuance of the Adjudication. See Phila. O.C. Rule 7.1A and Pa.O.C. 7.1 as amended, and Pa. R.A.P. 902 and 903.

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John W. Herron, J.