

JOHN E. MARTINELLI
JUDGE



PAUL V. JABOUR
CLERK

SUSAN L. SWARTZ
DEPUTY CLERK

PROBATE COURT OF THE CITY OF PROVIDENCE
RHODE ISLAND

January 26, 2012

To: The Honorable Angel Taveras, Mayor and
The Honorable City Council of Providence

Re: Annual Report of the Operation of the City of Providence Probate Court for the fiscal year commencing **July 1, 2010** through **June 30, 2011**.

Submitted herein for your information is a statistical and administrative overview of the operations of the **Probate Court** for the above referenced period.

Total Gross Receipts for the fiscal period were **\$166,856.06**.

During this period, the Court staff received **344** new filings for **Decedent Estates**¹. The breakdown for these estates is as follows:

- **153** resident **Wills** and **1 Foreign Will** (out of state jurisdiction)
- **62 Administrations of Decedent estates** (no will) and **1 Administration in RI** for out of state resident.
- **30 Voluntary Informal Executors**- small estates (with a will)²
- **66 Voluntary Informal Administrations**- small estates (no will);²
- **31** wills were filed alleging **no assets** upon which the will operates upon³;

Guardianship Petitions, both for adults and minors, continue to generate consistent court activity, with the statutory clerical responsibilities associated therein. The actual number of new guardianships⁴ and/or temporary guardianships granted by the Court for the fiscal year was **144**. Approximately **Fifty three (53%) percent** of these were for minors, the remaining **Forty-seven (47%) percent adults** (Person and/or Finance). This represents a dramatic shift of the type of guardianships the court hears, and shifts the emphasis of the court more in line what has been the purview of the Family Court. These cases all required hearings; many were contested matters, with extended court proceedings and in some of the minor cases, **Department of Children, Youth and Family** involvement.

¹ In addition, 3 Custodianships (necessary, interim appointments, pending appointment of permanent fiduciary) were filed contemporaneously with either a will or administration petition.

² Although formal hearings are not required for these cases, Court staff is required to review, collect filing fees and maintain a record of these estates; the Judge must review each of these petitions; some may require court hearings. This process allows families to distribute decedent estates of \$15,000.00 or less in value without a formal Probate proceeding.

³ Fees are collected for these filings.

⁴ A fair number of Guardianship cases are brought under the "RIGL Good Samaritan Act" or a petition alleging "in forma paupis" is filed, for which filing fees are waived.

N.B. In addition to the new Guardianship filings, the Court docket has approximately **730 active** adult and minor guardianships, an area of the Court's jurisdiction that continues to expand because of city and state demographics and the aging of our population.

Court staff is statutorily required by **R.I.G.L.** to monitor both the submission of **annual status reports** for adult guardians and minor guardians when court ordered as well as **annual accounts** for estates for which a **financial guardian** has been appointed.

Annual Status reports are presently entered on an in house computer system devised with City computer personnel to insure their timely filing. The office reviewed **90** status reports, but more may have been processed, since these do not generally require formal hearings, but must be entered into the Court system.

Guardian Accounts are reviewed by staff and heard by the Judge during regular court sessions. Staff continues to implement legal procedures when a Guardian does not comply with either of these statutory mandates, to insure compliance. The computer system is presently being fine-tuned to make this process more inclusive and efficient for both status reports and Guardian's accounts.

Probate Court also has jurisdiction for **adult and minor** name changes, provided both parents of the minor agree on the change. These require processing by Court staff, and assistance to the public in completing the forms. (Most petitioners seeking name changes are not represented by legal counsel.) Court staff, before any hearing before the judge, normally requests from the **Police Department** a statement as to whether the adult person seeking the name change has a criminal record. Subsequent to court hearings, **100 name change petitions** were granted.

The Court has jurisdiction for **adult adoptions**; most also involve a name change; **2 adult adoptions** were granted during this period.

In the normal course of its operation, numerous petitions and motions were processed and heard by the Court, in addition to the hearings and proceedings on "new filings".

- 20 petitions for sale of real estate;
- 2 petitions to re-open previously closed estates;
- 10 appointments of "successor" fiduciaries;
- 3 petitions to remove fiduciaries;
- 10 resignations of fiduciaries;
- 319 Miscellaneous Petitions concerning various procedural, factual or fee matters.
- 114 court orders as submitted by counsel were processed by court staff and submitted to the Judge for signature;
- 127 Creditor's claims were filed in active estate files; all required processing by staff; 24 Disallowance of claims were filed by fiduciaries and were also processed (some required full court hearings);

Various **fiduciary accounts**, in addition to **Guardian's Accounts**, as required by Statute or the Judge, were processed and reviewed for accuracy and detail by the Court staff; the Judge acted on **70** of these accounts during this past year.

Statutorily allowed **Affidavits of Complete Administration** were submitted to close **133** decedent estates; these require detail scrutiny by Court staff before accepting them as complete, and the issuance of a closing letter by the Clerk.

232 inventories for fiduciary estates were processed by staff. These are all reviewed for accuracy and conformity to Court orders and **R.I.G.L.**

All statutory fees were calculated and collected relative to Probate Court operations.

Cash is not accepted (except for minimal copy charges) for any probate fees, filings, and the like. All deposits are made through the **Tax Collectors Office**, in compliance with procedures established by the City Controller's office, to insure accurate accounting of all Court funds.

As part of the regular and ordinary operation of the court, cases requiring statutory notice in the newspaper are assembled and transmitted weekly by staff to the Providence Journal. Advertising costs are collected when the petitions are filed and included in the funds deposited with the **Tax Collectors Office**.

Guardian ad Litem appointments for adult guardianships and other court implemented appointments are assigned and forwarded, according to a rotating list, to the next in line.

Other tasks required by **R.I.G.L.** were completed in compliance with the appropriate statute(s). These include:

- Transmittal of **State Tax certificates** for each decedent estate to the Rhode Island Division of Taxation.
- Guardian notices to comply with filing status reports and accounts.

All Court personnel including the Clerk and Judge continue to insure the compliance by attorneys/fiduciaries of all Court orders.

Probate Court is statutorily mandated by **R.I.G.L.** to maintain a **Registry of Accounts** that are held on deposit with the **City** for the benefit of absentee heirs or beneficiaries of decedent's estates whose whereabouts is unknown or unascertainable to the fiduciary administering the estate⁵.

In addition, the **Registry of Accounts** lists accounts being held by the City for the benefit of minors that are beneficiaries or heirs of a decedent's estate and do not have a financial guardian appointed, (until the minor reaches **eighteen (18)** or accounts of minors whose guardian chooses to deposit the funds with the Registry until the ward reaches **eighteen (18)**). All withdrawals of this type of account must be heard and approved by the judge.

The **total Registry Account balance** for the end of the fiscal year was **\$614,567.97**; the staff, under the Clerk and Deputy Clerk's supervision reviews all bank statements and keeps track of balances of these accounts on an in-house computer system. Deposits are made through the regular procedures established by the **Controller's office, through the Tax Collector's office**.

Court Staff continues to implement the latest Probate computer software to facilitate the probate records system from docketing to deadline. Much still remains, given the difficulty of the task and limited resourced available for this type of operation. The continued support of the **City Council and Administration** in the budget process is most appreciative to achieve this goal of modernization of court records and processes.

Work is also being done on a regular basis, with the system vendor, to eliminate all manual typewriting by the department. Ultimately, automation of our docket system will greatly facilitate this activity and assuredly will increase compliance with all statutory mandates, which is the Court's ultimate goal.

⁵ After holding these accounts for the statutory period, if not claimed pursuant to **R.I.G.L. § 33-21.1-13** they escheat to the State of Rhode Island and are transferred there by the City, at the request of the Probate Clerk.

Probate Court continues to be committed to excellence to provide the best service and forum for City Taxpayers in an efficient, cost effective manner.

Respectfully Submitted,

John E. Martinelli

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Probate Judge
JEM/rs

IN CITY COUNCIL

FEB 16 2012

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED

John M. Stetson
CLERK