

**DRAFTING COMMON AND UNCOMMON PLEADINGS
IN COURT SUPERVISED ADMINISTRATIONS –
A VIEW FROM BOTH SIDES OF THE BENCH**

Presented by:

HON. CHRISTINE BUTTS, *Houston*
Judge, Harris County Probate Court No. 4

CATHERINE H. GOODMAN, *Fort Worth*
Harris, Finley & Bogle

GREGORY T. KIMMEL, *Tyler*
Allen Lotmann Kimmel

HON. NATHANIEL Q. MORAN, *Tyler*
Judge, Smith County Court

Written by:

CATHERINE H. GOODMAN
GREGORY T. KIMMEL

State Bar of Texas
28TH ANNUAL
ESTATE PLANNING & PROBATE DRAFTING
October 26-27, 2017
Houston

CHAPTER 5

CURRICULUM VITAE OF CHRISTINE BUTTS

CONTACT INFORMATION

Christine Butts
201 Caroline, 7th Floor
Houston, Texas 77002
713-368-6767
713-368-7171
Christine.butts@prob.hctx.net

PERSONAL INFORMATION

Date of Birth: April 12, 1971
Place of Birth: Houston, Texas
Citizenship: United States
Marital Status: Married to Donald Butts, II
Children: Donny, Abby, Thompson, Michael

MISSION

To serve families in times of crisis in a thoughtful, compassionate, and deliberate way, when that crisis involves the loss of a loved one, the need for a guardianship, or a mental health issue.

EMPLOYMENT HISTORY

1996-2004	Riddle & Brazil, LLP	Associate Attorney
2004-2006	Riddle & Associates, P.C.	Associate Attorney
2007-2010	Riddle, Butts & Akiens, LLP	Partner
2011-present	Judge, Harris County Probate Court No. 4	

EDUCATION

1989-1993	BBA	University of Texas	Major: International Business
1993-1996	JD	University of Houston Law Center	
1984-1989		Westfield High School, Houston, Texas	

PROFESSIONAL QUALIFICATIONS

- Board Certified in Estate Planning and Probate by the Texas Board of Legal Specialization (2003)
- Attorney Ad Litem appointed by the courts in probate, trust, and mental health matters
- Publishing Editor of the Houston Journal of International Law (1995-1996)

HONORS

- Texas Rising Star (2008, 2009, 2010) (as published in Texas Monthly Super Lawyer Magazine)
- Houston's top Lawyers for the People (2007-2009) (As published in H Texas Magazine)
- Houston's Top Lawyers (2007-2009) (As published in H Texas Magazine)
- Five Star Wealth Manager in Charitable Giving, Estate Planning, Will Preparation (2009) (As published in Texas Monthly Magazine)

PUBLISHED WORKS

“Choice of Business Entity in Texas.” *Houston Business and Tax Law Journal*, Volume 4, 2004.

LECTURES

“The Runaway Ad Litem.” Presented at the State Bar of Texas Advanced Guardianship law Course, April 7, 2017, Houston, Texas.

“Attorney and Appointee Fees.” Presented at the Houston Bar Association’s 2012 Wills and Probate Institute, South Texas College of Law on February 17, 2012.

“Representing Clients Facing Mental Health Commitment.” Presented to the Disability and Elder Law Attorneys Association on October 18, 2012.

“Coordinating Beneficiary Designations-Has Your World Changed in the Last Five Years.” Presented at the 24th Annual Wills and Probate Institute, September 24-25, 2009, South Texas College of Law.

“Using Revocable Trusts as Estate Planning Tools.” Sponsored by Lorman Education Services, December 2, 2008.

“Intestacy and Closing the Estate.” Sponsored by National Business Institute, July 17, 2008.

“Tax Exempt Organizations in Texas.” Sponsored by Lorman Education Services, February 13, 2007.

“The Future of Family Limited Partnerships in Estate Planning.” Presented to the American Women’s Society of CPA’s, February 4, 2006.

“Choosing a Business Entity in Texas with an Eye Toward Succession Planning.” Presented to the Attorneys in Tax and Probate, May 4, 2004.

“Choice of Business Entity in Texas.” Presented at the 2003 Accounting Expo Sponsored by the TSCPA Foundation, April 22, 2003.

MEMBERSHIPS

National College of Probate Judges, Executive Member
Planned Giving Council of Houston, Past Board Member
Attorneys in Tax and Probate
Disability and Elder Law Attorneys Association
Pasadena Bar Association
Mensa

COMMUNITY INVOLVEMENT

Junior League of Houston, Sustaining Member
Seamstress for Champions Figure Skating Club
2012, 2014 MS 150



CATHERINE H. GOODMAN

Harris, Finley & Bogle, P.C.

777 Main Street, Suite 1800, Fort Worth, Texas 76102

Telephone: (817) 870-8753; Facsimile: (817) 333-1173; E-Mail: cgoodman@hfblaw.com

Professional:

Harris, Finley & Bogle, P.C., Fort Worth, Texas (2016 to present)
Shannon, Gracey, Ratliff & Miller, L.L.P., Fort Worth, Texas (2007 to 2016)
Bruner, Jamieson & Pappas, L.L.P., Fort Worth, Texas (1999 to 2007)

Kronee-Silverman-Mincey, Inc., Dallas, Texas (1994-1998)
Martindale-Hubbell Peer Review Rating: *AV Preeminent* (2005 to present)
Board Certified by the Texas Board of Legal Specialization in Estate Planning and Probate Law (2001 to present)
Fellow, American College of Trust and Estate Counsel [(ACTEC); 2012 to present]
Fellow, Texas Bar and Tarrant County Bar Foundations

Education:

Southwestern University, Georgetown, Texas, B.A., Political Science and Spanish (1991)
Baylor University School of Law, Waco, Texas, J.D. (1994)

Publications:

In re: Estate of Jenkins, No. 2-05-164-CV, 2006 WL 1452669 (Fort Worth May 25, 2006)
Extraordinary Remedies in Guardianships, 7 EST. PLAN. & COMMUNITY PROP. J. 159 (2015)

Selected Professional Activities and Honors:

Member, American, Texas, and Tarrant County Bar Associations and various state and local bar associations and committees
Member, Decedents' Estates Committee, Real Estate, Probate, and Trust Law Section, State Bar of Texas (2013-2017)
Guardianship Chair, Real Estate, Probate, and Trust Law Section (REPTL), State Bar of Texas (2016-2020)
Ad Litem Award, Guardianship Services, Inc. (2007)
Fort Worth, Texas Magazine, Top Lawyers in Tarrant County (2001, 2007 to 2014)
Rising Star and Texas Super Lawyer, Texas Monthly and Texas Super Lawyers Magazines (2005, 2007-2009; 2011 to present)
President, Tarrant County Probate Bar Association (2006-2007)

Recent Speaking Engagements:

State Bar of Texas, Estate Planning & Probate Drafting, Drafting Common and Uncommon Pleadings-A View from Both Sides of the Bench (October 2017)
Tarrant County Probate Bar Association Nuts & Bolts, Realistic Solutions for Guardianship Issues (September 2017)
Baylor Law School CLE, 40th Annual General Practice Institute, When Independent Administrations Aren't So Independent (April 2017)
Course Director, *State Bar of Texas, Estate Planning & Probate Drafting Annual Courses* (October 2016)
State Bar of Texas, Opening (or Running) Your First GP Office; Estate Planning 101 (October 2016)
Course Director, *State Bar of Texas, Advanced Guardianship and Advanced Elder Law Annual Courses* (April 2016)
State Bar of Texas Webcast, Panelist, Drafting Your First Will—Practical Considerations and Drafting Recommendations (November 2015)
State Bar of Texas Estate Planning & Probate Drafting, Panelist, Drafting Settlement Agreements at Mediation (October 2015)
Tarrant County Probate Bar Association Nuts & Bolts, Declaring Your Independence: Making Dependent Administrations Less Dependent (September 2015)
State Bar of Texas, Advanced Estate Planning and Probate Seminar, When Independent Administrations Aren't So Independent (June 2015)
State Bar of Texas, Advanced Guardianship Seminar, Moderator and Panelist, ADR, Mediation and Contested Guardianships (April 2015)
Texas Tech School of Law, CLE & Expo, Extraordinary Remedies in Guardianship (March 2015)
Tarrant County Probate Bar Association Litigation Seminar, Panelist, Mock Guardianship Hearing (September 2014)
State Bar of Texas, Advanced Estate Planning and Probate Seminar, Declaring Your Independence: Making Dependent Administrations Less Dependent (June 2014)
Baylor University Office of Gift Planning, Heart of Texas Estate Planning Council, and McLennan Community College Foundation, Planning for Incapacity (May 2014)
Hidalgo County Bar Association 2014 Trust, Probate, and Guardianship Law Course, Extraordinary Remedies in Guardianships (May 2014)
State Bar of Texas Advanced Guardianship Seminar, Extraordinary Remedies in Guardianships (April 2014)

Civic Activities:

Member, Fort Worth Republican Women
Member, Grapevine Chamber of Commerce & Women's Division
Board Member, Alliance For Children, Tarrant County, Texas (2011 to present), President (current)
Board Member, Guardianship Services, Inc. (2012 to 2015)
President, Heritage Elementary School PTA, Grapevine, Texas (2015-2017)
Board Member, Heritage Middle School PTA, Colleyville, Texas (2014-2017)
Board Member, Colleyville Heritage High School PTSA, Colleyville, Texas (2017-present)
Legal Advisor, GC-SAGE, INC. (Grapevine/Colleyville Supporting and Advocating for Gifted Education) (2010 to present)
Financial Advisor, Gamma Chi Chapter of Alpha Delta Pi International Sorority, Texas Christian University (2001-2004)
President, Dallas Alumnae Association of Alpha Delta Pi International Sorority (1998-1999)
Member, Junior League of Dallas (1997-2000)
Member, The Fort Worth Club (2005 to 2007)
Member, Petroleum Club of Fort Worth (2007 to 2013; 2016 to present)
Member, City Club of Fort Worth (2014 - 2016)

Personal:

Married to Don Goodman (18 years); two sons: Michael David (15 years) and Andrew John (11 years); Resident of Grapevine, Texas (17 years);
Member Argyle United Methodist Church

GREGORY T. KIMMEL
ALLEN ♦ LOTTMANN ♦ KIMMEL, P.C.
3805 Old Bullard Road
Tyler, Texas 75701
903-534-0006 Phone
greg@allenlottmann.com

EDUCATION

J.D., University of Houston Law Center, Houston, Texas
B.A., The University of Texas at Austin, Austin, Texas
Undergraduate studies, Wake Forest University, Winston-Salem, North Carolina 1993-1995

BAR ADMISSIONS

Texas, 2001

HONORS AND AWARDS

Smith County Outstanding Young Lawyer Award, 2012

CERTIFICATIONS

Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization

PROFESSIONAL ASSOCIATIONS, COMMITTEES AND MEMBERSHIPS

Past President- East Texas Estate Planning Council (2015-2016)

Past Director and Officer - Smith County Bar Association

Past Director and Officer - Smith County Young Lawyers Association

Member - Real Estate, Probate & Trust Law Section of the State Bar of Texas (REPTL),
Decedents' Estate Committee (2015-2017)

Member - REPTL Leadership Academy Committee

Member - Planning Committee for Estate Planning and Probate Drafting Course, Texas State
Bar (2016, 2017)

Member - State Bar of Texas American Bar Association

Member - National Association of Elder Law Attorneys

PRO BONO ACTIVITIES

Director- East Texas Communities Foundation

Director - Cancer Foundation for Life

Past Director - Hospice of East Texas

Past Director - Better Business Bureau

Past Director - The Children's Village

PRESENTATIONS AND PUBLICATIONS

Panelist, *Probate Procedures and Alternatives*, 19th Annual Estate Planning, Guardianship and
Elder Law Conference, The University of Texas School of Law CLE, Galveston, Texas (2017)

Panelist, *Probate Procedures and Alternatives*, Building Blocks of Wills, Estates, and Probates,
Texas Bar CLE, Austin, Texas (2016, 2017)

Presenter, *Mind the Gap: Advanced Planning Techniques for Incapacity*, Estate Planning &
Probate Drafting Course, State Bar of Texas, Dallas, Texas (2016)

Presenter, *Selecting a Business Entity*, Expo 2015 at Gollob Morgan and Peddy P.C. (2015) and Small Business Boot Camp at the Center for Family and Small Enterprises, The University of Texas at Tyler (2015)

Author and Presenter, *Incapacity Planning 101*, Alzheimer's Alliance (2015)

Presenter, *Role of the Guardian*, Ad Litem Certification Course for the Smith County Bar Association (2014)

Author and Presenter, *Strategies for a Successful Succession*, Small Business Boot Camp at the Center for Family and Small Enterprises, The University of Texas at Tyler (2014)

Author and Presenter, *Business Succession Issues Involving Second and Third Generations that have No Desire to be Partners*, 38th Annual Advanced Estate Planning and Probate Course (2014); San Antonio Estate Planners Council (2014); Midland Odessa Estate Planning Council (2015)

Author and Presenter, *Estate Planning Overview with Legislative Update*, Henderson County Bar Association (2013)

Author and Presenter, *Strategies for a Successful Succession*, The 2013 Family & Small Business Forum, The University of Texas at Tyler (2013)

Author and Presenter, *Essentials in Estate Planning for 2012*, Henderson County Bar Association (2012)

Author and Presenter, *Preparing for the Future: Estate Planning and Elder Law Basics*, KVNE Radio Station, Tyler, Texas (2012)

Author and Presenter, *Myths in Estate Planning and Elder Law*, Hospice of East Texas/Alzheimer's Alliance of Smith County (2012)

Co-Author, *Seniors & the Law: A Guide for Maturing Texans*, Texas Young Lawyers Association (2009)

Author and Presenter, *Advanced Planning for End of Life Issues*, Smith County Bar Association (2009)

Education

J.D.	Texas Tech University School of Law	2002
M.B.A.	Texas Tech University- <i>Magna Cum Laude</i>	1998
B.A.-Russian	Texas Tech University- <i>Summa Cum Laude</i>	1997
	U.S. Military Academy (West Point, NY)	1993-1995

Judicial & Legal Experience

• County Judge, Smith County, Texas	July 2016-Present
• Nathaniel Moran Law Firm, PLLC (Tyler, Texas), Principal	July 2016-Present
• Ramey & Flock, P.C. (Tyler, Texas), Partner	June 2012-July 2016
• Snow Fogel Spence, LLP (Houston, Texas), Associate Attorney	June 2009-May 2012
• Ramey & Flock, P.C. (Tyler, Texas), Associate Attorney/Partner	August 2002-May 2009

Wide-ranging litigation and transaction practice in the following areas: business & commercial litigation; creditors' rights; insurance defense; mass tort defense litigation; oil and gas; municipal law; intellectual property; labor and employment; commercial lending; business formation; contracts; corporate transactional work; and real estate.

Distinctions

• AV Preeminent® Rating, Martindale-Hubbell®	2012-2016
• W.C. Windsor Community Service Award Recipient-Tyler Area Chamber of Commerce	2009
• Fellow, Texas Bar Foundation	2008-Present
• Smith County Young Lawyer of the Year	2009
• Leadership Tyler Graduate, Class 18	2005
• <i>Texas Super Lawyers Rising Star</i> ®-Business Litigation	2010
• <i>Texas Super Lawyers Rising Star</i> ®-Creditors' Rights	2011-2016
• National Order of Barristers	2002

Recent Community Leadership

- Tyler Area Chamber of Commerce, Board Member 2015-2017
- Whitehouse ISD Education Foundation, Founding Board Member & Past President (2014) 2014-2017
- The Discovery Science Place, Board Member & Current President (2016) 2012-2017
- Smith County Bar Association, Board Member 2013-2017
- Catalyst100 Community Leadership Program, Full Member 2013-2017
- Cancer Foundation for Life, Board Member 2015-2017

Past Community Leadership

- Mayor Pro Tem, City of Tyler May 2009
- Councilmember, District 5, City of Tyler 2005-2009
- Tyler Economic Development Council, Executive Cmte. Member 2008-2009
- Texas Municipal League Legislative Policy Cmte. on Taxation, Member 2008-2009
- Texas Municipal League, Region 15 Board of Directors & 1st VP 2009
- Lake Tyler Advisory Board, Chairman 2008-2009
- The Discovery Science Place, Board Member 2008-2009
- Smith County Republican Club, President 2007-2008
- Smith County Republican Party, Candidate Cmte. Chairman 2006-2008
- Smith County Republican Party, Precinct 55 Chairman 2006-2009
- Republican Party of Texas State Convention, Delegate 2004, 2008
- Tyler Library Advisory Board, Member 2005
- Leadership Tyler Graduate—Class 18 2005
- Smith County, Precinct 55 Election Judge 2004
- Smith County Young Lawyers' Association, Director 2003

Publications

Moran, Nathaniel *Industry Beware: Evaluating Whether a Landman is an Independent Contractor or Employee Under the Fair Labor Standards Act*. The Landman May/June 2010 ed.

TABLE OF CONTENTS

I.	TEMPORARY ADMINISTRATIONS	1
	A. Appointment for the Interest of the Estate	2
	B. Application Pending Will Contest.....	2
	C. The Order	2
	D. Forms.....	2
II.	CREATING DEPENDENT ADMINISTRATIONS	2
III.	THE INVENTORY	2
	A. Inventory	2
	B. Appraisalment	3
	C. List of Claims.....	3
	D. Forms.....	4
IV.	ANNUAL ACCOUNTS	4
	A. Contents.....	4
	B. Forms.....	5
V.	SALES OF PROPERTY	5
	A. All Sales	5
	B. Real Property Sales, Generally.....	5
	1. Application for Sale of Real Property	5
	2. Notice	5
	3. Hearing	5
	4. Order Authorizing Sale of Real Property	5
	5. Sale	6
	6. Report	6
	7. Confirmation	6
	8. Non-personal Representative	6
	9. Forms.....	6
	C. Easement Sales.....	6
	D. Personal Property Sales.....	7
VI.	MINERAL LEASES.....	7
	A. Application.....	7
	B. Notice and Hearing	7
	C. Order	7
	D. Lease	7
	E. Alternate Procedure for Order Without Notice	7
	F. Non-Personal Representative	8
	G. Forms.....	8
VII.	RENTING REAL PROPERTY	8
	A. Order Not Required.....	8
	B. Order Required.....	8
	1. Application	8
	2. Order.....	8
	3. Delivery	8
	4. Report.....	8
	5. Return of Property	8
	6. Non-personal Representative	9
	7. Forms.....	9
VIII.	PARTITION AND DISTRIBUTION	9
	A. Application.....	9

B.	Notice and Hearing	9
C.	Property Capable of Division.....	9
D.	Property Incapable of Division	10
E.	Special Cases.....	10
F.	Non-Personal Representatives.....	10
G.	Forms.....	10
IX.	ACCOUNT FOR FINAL SETTLEMENT AND CLOSING	10
A.	Account for Final Settlement	11
1.	Contents.....	11
2.	Forms.....	11
B.	Closing and Discharge	11
X.	CONCLUSION.....	12
APPENDICES		
A.	1. Application for Appointment of Temporary Administrator.....	13
	2. Order Appointing Temporary Administrator	17
B.	1. Application for Letters of Dependent Administration.....	19
	2. Order Authorizing Letters of Dependent Administration.....	21
C.	1. Inventory, Appraisalment, and List of Claims	23
	2. Order Approving Inventory, Appraisalment and List of Claims.....	27
D.	1. Annual Accounting for the Period of _____ through _____.....	29
	2. Order Approving Annual Accounting.....	37
E.	1. Application for Sale of Real Property	39
	2. Order Authorizing Sale of Real Property	41
	3. Report of Sale of Real Property.....	43
	4. Decree Confirming Sale of Real Property.....	45
F.	1. Application for Sale of Personal Property.....	47
	2. Order Authorizing Sale of Personal Property.....	49
	3. Report of Sale of Personal Property	51
	4. Decree Confirming Sale of Personal Property	53
G.	1. Application to Lease Property for Mineral Exploration and Development at Private Sale.....	55
	2. Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale.....	57
H.	1. Application for Lease of Real Property.....	59
	2. Order Authorizing Lease of Real Property.....	61
	3. Report of Renting	63
I.	1. Application for Partition and Sale of Real Property.....	65
	2. Order on Application for Partition and Sale of Real Property.....	67
J.	1. Account for Final Settlement	69
	2. Order Approving Account for Final Settlement.....	75
K.	1. Application to Close Estate and to Discharge Personal Representative.....	77
	2. Order Closing Estate and Discharging Personal Representative.....	79

DRAFTING COMMON AND UNCOMMON PLEADINGS IN DEPENDENT ADMINISTRATIONS

It is not enough to merely know the law, a good lawyer must also be able to articulate it in a manner and format that successfully presents a client's position. It is also said that good lawyers know the law, great lawyers know the judge - but that's a different topic for another day. The point of this paper is to provide ideas and materials to assist practitioners in effectively advocating for their clients in court supervised administrations through the practical drafting of simple, concise and well considered pleadings. Since this seminar is primarily focused on probate and estate planning, the paper will mainly cover dependent administrations of a decedent's estate but will occasionally touch on guardianship administrations which are also court supervised.

In the legal sense, a pleading is a document that sets forth the party's claims, allegations or defenses regarding the matter before the court. Thus, any type of pleading will be most effective if it is simple, direct and easily understood by the person for whom it is intended. In preparing pleadings it is helpful if you start by considering a few basic questions:

- a) who is my target audience?
- b) what am I trying to accomplish?
- c) what type of pleading will best serve my goal?

So who is your target audience for pleadings in a probate case? The judge is the first person who comes to mind since it is the judge who has the power to grant or deny your client's pleas. However, sometimes there will be an opposing party looking over your shoulder, waiting to critique and disagree with every argument in your pleading. Thus, the pleading should address the position and arguments presented by the opposing side, if there is one, while you educate and advocate those involved as to the merits of your client's case. As important as it is to provide a persuasive statement of facts and law to the court and other parties, it is also critical to draft your pleadings with your client in mind. Entering into the case, your client will likely have little idea of what lies ahead and will be looking to you for guidance and direction, counting on your expertise to navigate them through the sometimes rough probate waters. Considering this, your pleadings could mean much more to your client than just words on a page.

In addition to your audience, it is important to consider what you are trying to accomplish with the pleading you are drafting as part of the overall scheme of the probate action. Rarely does a pleading exist in a

vacuum, and this is definitely true of probate pleadings. Before drafting any pleading in a dependent administration, consider how your pleading will fit into the larger picture of administering the estate or meeting your client's goals. At times it might be possible to combine requests for different actions, such as an application to sell both real and personal property. This streamlines necessary actions in an administration, and judges appreciate it when we creatively and effectively deal with multiple issues at once instead of addressing each action in a vacuum possibly causing additional and otherwise avoidable hearings.

Now let's touch on the style of our writing as lawyers. Clients essentially pay us to speak for them, but a good number of our clients do not understand our pleadings and letters because of complicated syntax and our stilted writing style. If the reader gets lost trying to connect the subject and predicate in a sentence or is distracted by the words you have chosen, then the point you're trying to make could be lost or reduced. Using "plain English" in a natural flow or tone will allow you to convey your arguments more effectively to a wider audience. If your pleadings are readable, they will be more willingly read by the court and others which is pretty important when your primary job is to speak for your client. One way to curb the tendency to write like a lawyer is to avoid legal jargon whenever possible. Your documents will be much more effective if you stick with words and phrases that are easily understood, leaving "aforementioned," "hereinafter," and "theretofore" in the archives where they belong.

Now in thinking through the organization of this paper, the authors landed on the idea of addressing pleadings as they might chronologically occur in a properly administered estate. We will start with temporary administrations and end with accounts for final settlement and discharging personal representatives. Note this paper does not cover all pleadings used in dependent administrations, but several which are required and some which are frequently used.

I. TEMPORARY ADMINISTRATIONS

There are a couple of different situations that require a temporary administration. One is where the status quo needs to be maintained, for example, if the decedent had an ongoing business that needs immediate attention. Another situation would be where assets are likely to waste or deteriorate before the will can be probated. The most common reason, however, is when there is litigation regarding the probate. Someone might be contesting the validity of the will, or there could be a battle over who will serve as executor. Or, there could be a dispute about the identity of the distributees. During the months or even years it takes to resolve these types of disputes, a

temporary administrator can handle the routine business of the probate administration. They can pay debts, collect assets, invest and protect assets, and file tax returns.

A. Appointment for the Interest of the Estate

Under §452.001 of the Texas Estates Code, a court can appoint a temporary administrator by written order if the judge determines that the interest of the decedent's estate requires such an appointment. On the other hand, a person may file an application to appoint a temporary administrator. *Id.* §452.002. If the temporary administration is created pursuant to the statute based on the interest of the estate, the term of the appointment may not exceed 180 days unless the court during that time converted it to a permanent. *Id.* §452.003(2). When a temporary administration based on the interest of the estate is initiated by the filing of an application, the application must be verified and must contain an affidavit. *Id.* §452.002.

B. Application Pending Will Contest

Applications pending a will contest are more common than those filed in the interest of the estate. The statute does not specifically require applications under §452.051 to be verified or to contain an affidavit. However, one should check with the court staff or the local rules to determine what is required.

C. The Order

The order appointing a temporary administrator must designate the appointee as temporary administrator for a specified period, define the powers of the appointee, and set the amounts of bond. The order must state that the term of the appointment expires in either 180 days, or at the conclusion of the pending contest. The requirements for the order are provided in §452.003.

D. Forms

See Appendix A for sample forms, as follows:

1. Application for Appointment of Temporary Administrator; and
2. Order Appointing Temporary Administrator.

II. CREATING DEPENDENT ADMINISTRATIONS

An application for letters of administration must be filed on or before the fourth anniversary of the decedent's death. This was clarified in our most recent legislative session. The order granting letters of administration could technically be signed more than four years from the date of death as long as the application was timely filed. The filing of an application for letters of administration could occur in an estate where the decedent left a will (§256.003), or

in an intestacy. (§301.002). Typically, dependent administrations are the result of decedents failing to get their affairs in order, i.e. dying intestate. Most people who have wills in Texas have elected for an independent administration through their will planning, because independent administrations are less expensive and more private since the court is not as involved. However, sometimes a dependent administration, with its additional steps, provides more protection for the personal representative from creditors and from feuding beneficiaries. Thus, at times, even though an independent administration is available, due to either the provisions of the will, or due to the distributees consenting to an independent administration (§401.003), your client may be better off serving as a dependent personal representative ("PR").

The named executor under a will or an interested person of an estate has standing to file the application. An "interested person" includes heirs, devisees, spouses, creditors, or others having property rights in, or claims against, the estate. *Id.* §§256.051 and 22.018.

See Appendix B for sample forms, as follows:

1. Application for Letters of Dependent Administration (Intestate Decedent); and
2. Order Authorizing Letters of Dependent Administration.

III. THE INVENTORY

When a dependent PR is appointed, they must file a bond and oath within 20 days from their appointment to become qualified. Texas Estates Code §§305.002, 305.003 and 305.004. Before the 91st day after qualification, the dependent PR must file a verified inventory, appraisal and list of claims due the estate. For good cause, the court may require the inventory to be filed at an earlier time. *Id.* §309.051. Not later than the 30th day after qualification, the dependent PR must file a verified inventory, appraisal and list of claims due the estate.

An inventory, appraisal and list of claims is required in every type of administration, both under the general provisions of the Estates Code, and in special administrations such as the administration of a successor personal representative. *Id.* §361.155. The only situation where an inventory is not filed is where an independent executor could elect to file an affidavit in lieu of the inventory. Any person interested in the estate is entitled to receive, on written request, a copy of an inventory, appraisal and list of claims. This request may be enforced by a court order. *Id.* §309.056(c).

A. Inventory

The primary purpose of the inventory is for the court to determine what property comes within or lies without its jurisdiction. *Brown v. Fleming*, 212 S.W.

483 (Comm. App. 1919, jdgmt adopted); *Schmeltz v. Garey*, 49 Tex. 49 (1878). A dependent PR uses the inventory as a beginning point for his account and identifies the property for which he is chargeable. The inventory establishes the extent of the PR's liability. *Cartledge v. Billalba*, 154 S.W.2d 219 (Civ. App. - El Paso 1941, ref. w.o.m.); *White v. Shepperd*, 16 Tex. 163 (1856). Beneficiaries or distributees can review and evaluate the correctness of the listing and take action to require the inclusion of improperly omitted assets. Third persons dealing with the estate are protected by it. When it pertains to a person buying property who relies on an inventory showing that it belonged to the estate, the PR who prepared the inventory cannot later assert title to such property. Finally, creditors may identify assets of the estate subject to claims, thus enabling them to determine what, if anything, must be done to protect their interests. *White v. Shepperd, supra*.

B. Appraisalment

Section 309.051(b) addresses appraisements. The purpose of the appraisalment is to:

1. fix the presumptive estate value;
2. fix the bond amount;
3. establish the reasonableness of attorney's fees and court costs;
4. establish the reasonableness of the sale price of estate property;
5. establish the value of distributive shares of the estate; and
6. enable creditors to make informed decisions on treatment of claims.

The value of each listed asset must be stated opposite each asset, and the date of valuation in a decedent's estate is date of death. *Id.* §309.051(b). In a guardianship, the date of valuation is the date the letters are granted. *Id.* §1154.051(b). Further, the gross worth of each asset should be shown, without deduction for liens or other encumbrances.

Generally, each item of real property located in Texas and each item of personal property wherever located must be listed. The property should be briefly described and the location given only if necessary to identify it, particularly if located outside the county of probate. The real property should have a description sufficient to identify the property. Any description which clearly identifies the land is sufficient, although a metes and bounds description has the advantage of usually precluding later contests over what land was sold. If the property is residential and particularly if it is out-of-county, a location such as the street address is very helpful. A notation as to its current use (e.g., farm land, commercial, residential, rental, etc.) will also be helpful and will be necessary in the accountings to

come. *Id.* §309.0561(a)(1)(A). The personal property should be categorized into logical groupings such as cash in banks, securities and miscellaneous. *Id.* §309.051(a)(1)(B).

Further, the real and personal property must also be further categorized as separate property or community property. If the estate owns property in common with others or owns an undivided interest in property, the inventory should specify the nature and extent of the estate's interest.

The inventory is intended as a listing of only probate assets, that is, items subject to administration in the probate court. Items that pass to others at the decedent's death by means of a contract and other non-probate assets are not properly reflected on the inventory.

C. List of Claims

In addition to the inventory and appraisalment, the dependent PR must also return a full and complete list of claims due or owing to the estate. *Id.* §309.052. For each claim, the list should show the:

1. name and address of debtor;
2. nature of the debt (i.e. whether a note, bill, or other written instrument, an open account or verbal contract);
3. date on which the debt was incurred & due date of the claim;
4. rate of interest being charged and the time for which interest is charged;
5. amount of the claim;
6. whether the claim is separate or community; and
7. the estate's fractional interest if the claim is held in common with others.

Claims owed by the estate are debts of the estate and are not required to be included. The inventory, appraisalment and list of claims only involves property owned by the estate.

The inventory must be followed by the signed affidavit of the PR in which he swears that: "the inventory, appraisalment and list of claims are a true and complete statement of the property and claims of the estate of which the representative has knowledge."

Approval of the inventory by the court is not an adjudication of property listed or omitted on the inventory, but is prima facie evidence of that fact. *Adams v. Sadler*, 696 S.W.2d 690 (Tex. App. -Austin 1985, writ ref'd n.r.e.). Court approval makes the inventory and list of claims prima facie evidence that:

1. the assets included in the inventory belong to the estate;
2. there are no other assets belonging to the estate; and

3. the estate's gross value is the amount indicated by the appraisal and list of claims.

While the approved inventory provides a legal presumption as to the extent, nature and value of the estate property, it is not binding on anyone if one can show, by good evidence, that the facts are otherwise. *Hull v. Hull*, 183 S.W.2d 275 (Civ. App. 1944, error refused).

D. Forms

See Appendix C for sample forms, as follows:

1. Inventory, Appraisal, and List of Claims; and
2. Order Approving Inventory, Appraisal, and List of Claims.

IV. ANNUAL ACCOUNTS

A. Contents

Dependent PRs have the responsibility upon the expiration of twelve (12) months from the date of qualification and receipt of letters to file with the court a sworn accounting reflecting the condition of the Estate and the activities of the Estate. Texas Estates Code §359.001. The annual accounts of executors, administrators and guardians of the estate are due 60 days after each anniversary of qualification. *Id.* §§359.001, 359.002. The required contents of the annual account are enumerated in considerable detail in §359.001 of the Texas Estates Code. However, just following the requirements set forth in the code does not yield a comprehensible accounting. Some additional suggestions for more understandable accounts have been included.

Clearly show the period for which the account is made. Reviewing an account merely styled "Second Annual Account" does not sufficiently identify the period for which the account is returned. You could provide in the title of the pleading the first and last day of the accounting period.

Restate and total the property on hand at the beginning of the period covered, either with reference to the inventory (if this is the first annual account) or to the closing values of the previous annual account. It is preferred to actually recapitulate the asset listing briefly rather than merely giving an opening balance. This not only gives you and the court a quick reference within the accounting, but also provides an opening balance to reconcile the accounting.

Any property not previously inventoried or accounted for which has come to the knowledge or into the possession of the dependent PR should be listed. *Id.* §359.001(b)(1). Real property, personal property and claims should be grouped for clarity.

The dependent PR should provide changes in the property of the estate not previously listed. *Id.* §359.001(b)(2). This category would include such items as: 1) sales of estate property; 2) receipt of claims owed to the estate; 3) compromise of disputed claims; and 4) fluctuations in investments. If these changes were as a result of actions taken with court approval, it is really helpful to refer to the specific order in the pleading.

The accounting should provide the receipts and they should be separated by principal and income and itemized by date and source. *Id.* §359.001(b)(3). Similarly, disbursements should be itemized by date and payee, purpose, and supported by vouchers (attached as an exhibit). Internal references to other portions of the account to reflect related transactions are very helpful. Also, indicate whether the disbursements were made with or without court approval. Disbursements made without approval will require ratification (and some supporting evidence).

The dependent PR should list the property currently being administered and should follow the same format as the opening figures. *Id.* §359.001(b)(4)(A). For real and personal property, the pleading should identify the property, indicate its condition, its current use, and if it is being rented, the rental terms. Pursuant to §359.001(b)(5), information on cash on hand or on deposit should include: 1) depository name and location; 2) type of account and account number; and 3) cash balance on closing date. The accounts will need to be verified by each depository. Funds of the estate held under safekeeping agreements are to be accounted for in the same manner as cash on hand and with a verification from each depository. *Id.* §359.001(b)(5,6).

Claims against the estate which have arisen in the normal course of affairs (i.e., debts and obligations not in dispute or for which formal claims have not been presented) may simply be reflected under receipts and disbursements. Formal or disputed claims which have been presented for allowance and approval should be listed showing: 1) a brief description of each claim; 2) whether the claims were allowed and/or paid, rejected, or sued upon and the status of the suit. There also should be an explanation of any differences between amounts claimed and amounts allowed or adjudged to the claimant.

Unpaid debts and obligations and liabilities of the estate should also be shown with sufficient information to allow the court to determine the solvency or insolvency of the estate. Paid claims should also be referenced under disbursements.

A reconciliation of the foregoing, while not required by the Code, is a good idea and will certainly make everyone's life much easier. It can refer to the items by paragraph number and category. The reconciled amount should then balance with the cash

and other property on hand. Subtracting claims and unpaid debts of the estate will then give a net value for the estate for the end of the accounting period.

The dependent PR must sign an affidavit attached to the account. *Id.* §359.005. Additionally, several attachments or exhibits must accompany the account:

1. Vouchers (invoices) - *Id.* §359.003 - to support each disbursement.
2. Verifications of Funds on Deposit - from each bank or depository (§359.004):
 - a) for all cash on hand and funds held subject to safekeeping agreements;
 - b) signed by an authorized officer of the bank or other depository;
 - c) if the same bank is serving as the PR, the verification must be signed by an officer other than the officer swearing to the account.
3. For securities (including bonds and notes) of the estate, proof of existence and current possession of the securities is required in one of the following forms:
 - a) a confirmation of safekeeping from the depository where the securities are held;
 - b) a certificate by an authorized representative of the corporate surety on the bonds;
 - c) a certificate of a court clerk; or
 - d) an affidavit of a reputable person designated by the court upon request of the personal representative or some other interested party.

If a verification is simply impossible or impractical to obtain, determine if your court auditor will accept examining the most recent statement on the account. Also, if the dependent PR has been delinquent in paying or filing any taxes or tax returns, a statement must be attached with a description of any delinquency in paying or filing any taxes or tax returns due and the reasons for the delinquency. §359.001(b)(8, 9). This could easily be incorporated into the required affidavit mentioned above.

B. Forms

See Appendix D for sample forms, as follows:

1. Annual Accounting; and
2. Order Approving Annual Accounting.

V. SALES OF PROPERTY

A. All Sales

If a decedent dies testate, the will could authorize the executor to sell property. However, in a dependent administration, estate property may not be sold without a court order. Texas Estates Code §356.001. Applications for the sale of real and personal property may be necessary in an administration, however, they do not need to be a cumbersome process.

B. Real Property Sales, Generally

1. Application for Sale of Real Property

An application for the sale of real property can be made if the sale appears necessary or advisable to pay expenses of administration, the decedent's funeral expenses, expenses of the decedent's final illness, allowances or claims against the estate, or to dispose of an interest in real property if selling it is in the best interest of the estate. *Id.* §356.251. The application must be in writing and describe the interest in real property to be sold. *Id.* §356.252. A verified affidavit must accompany the application that shows in detail the estate's condition, the claims that have been accepted or proven by suit, or that have been rejected and may yet be established, including the amount, the estate property remaining that is liable for the payment of the claims, and any other facts showing the necessity or advisability of the sale. *Id.* §356.252.

2. Notice

On the filing of an application, the probate clerk issues a poster citation to all persons interested in the estate. *Id.* §356.253. During the ten (10) day notice period, any interested person can file a written opposition to the sale or an application for the sale of other estate property. *Id.* §356.254.

3. Hearing

A hearing is not required unless opposition to the sale is filed, but the court may nevertheless determine one is necessary. *Id.* §356.255(b). Procedure in this regard varies from county to county, so be sure to check the local rules.

4. Order Authorizing Sale of Real Property

The court must order the sale if satisfied that the sale is necessary or advisable. *Id.* §356.256(a). Otherwise, if the court considers it best, the court can order the sale of other property that would be more advantageously sold. *Id.* §356.256(a). The estate property to be sold for the payment of expenses or claims must be the property the court considers most advantageous to the estate. *Id.* §356.257. Some instances in which applications to be sold have been denied include sales of undivided interests in real property, sales during temporary administrations when

other funds are available, and sales during temporary administrations pending will contests.

The court's order must specify the property to be sold, whether the property is to be sold at public auction or private sale, the time and place of the sale if an auction, the necessity or advisability of the sale, the purpose of the sale, the sufficiency of the bond if the dependent PR is required to give a general bond, the increased or additional bond if the general bond is insufficient, that the sale is to be made and the report returned in accordance with the law, and the terms of the sale. *Id.* §356.256(b). It is not at all unusual for the court to require the dependent PR to obtain any increases in corporate surety bond within a certain time period after the date indicated on the Order Authorizing Sale of Real Property. This allows the dependent PR to proceed with the sale without being delayed while seeking a new surety bond or bond endorsement.

5. Sale

Notice must be given of a public sale. *Id.* §356.401. A public sale must occur between 10:00 a.m. and 4:00 p.m. the first Tuesday of the month after publication of the notice has been completed. *Id.* §356.403(b). If the bidder fails to comply with the terms of sale, the property is to be re-advertised and sold without further order. *Id.* §356.405(a).

A private sale must be made in the manner directed by the court in the order of sale. *Id.* §356.451. Unless the court orders otherwise, advertising, notice, or citation concerning the sale is not required. *Id.* §356.451.

Up to eighty percent (80%) of the purchase price of the sale can be on credit. *Id.* §356.302(a). Payments may be monthly, quarterly, semi-annually or annually. *Id.* §356.302(a). The note must be at a rate of at least four percent (4%). *Id.* §356.302(a). The note must be secured by a vendor's lien. *Id.* §356.302(b). It is not a good idea for clients to carry the note for the buyer. In fact, it is highly unlikely the court would approve a sale that was not a cash sale to the seller/estate.

6. Report

A sale must be reported within thirty (30) days. *Id.* §356.551. The report must include the date of the order of sale, a description of the property sold, the time and place of sale, the purchaser's name, the amount for which each property was sold, the terms of the sale, whether the sale was made at public auction or privately, and whether the purchaser is ready to comply with the order of sale. *Id.* §356.551. The report must be in writing, sworn to, and filed with the clerk. *Id.* §356.551.

7. Confirmation

After five (5) days from the report, the court must inquire into the manner of the sale, hear evidence in support of or against the report, and determine the sufficiency of the bond, if any was required and given. *Id.* §356.552. If a bond was not required, the court may confirm the sale if the court finds the sale is satisfactory and made in accordance with law. *Id.* §356.553. If the bond is sufficient, the court may also confirm the sale. *Id.* §356.554(b). If the bond is insufficient, the court cannot confirm the sale until the bond is increased or an additional bond is given as required by the court. *Id.* §356.554(c).

If the court is satisfied the sale was for a fair price and properly made, it must enter an order confirming the sale, showing conformity with Chapter 356 of the Texas Estates Code, detailing the terms of the sale, and authorizing the dependent PR to convey on the purchaser's compliance with the terms of the sale. *Id.* §356.556(a). Once the sale is confirmed and the purchaser complies with the terms, the dependent PR must promptly execute and deliver a proper deed conveying the property to the purchaser. *Id.* §356.558(a).

It is not unusual for an appraisal to be required, or an independent statement verifying that the sales price is fair and reasonable, usually from a realtor or appraiser not associated with the sale. Further, if the court is not satisfied, it can set the sale aside and order a new sale. *Id.* §356.556(b). The order confirming or disapproving a sale is a final judgment. *Id.* §356.556(c).

8. Non-personal Representative

If the dependent PR does not apply for an order to sell sufficient estate property to pay charges and claims, any interested person can apply and have the dependent PR cited to appear, make a full report regarding the estate's condition, and show cause why a sale of the property should not be ordered. *Id.* §356.601.

9. Forms

See Appendix E for sample forms, as follows:

- a) Application for Sale of Real Property;
- b) Order Authorizing Sale of Real Property;
- c) Report of Sale of Real Property; and
- d) Decree Confirming Sale of Real Property.

C. Easement Sales

Easements may be sold even if not required to pay charges or claims against the estate. Texas Estates Code §356.501. The procedure for sale of an easement is the same as the sale of real property at private sale. *Id.* §356.502.

D. Personal Property Sales

The court may order a sale if the court finds that the sale of the property is in the best interest of the estate to pay expenses of administration, decedent's funeral expenses, expenses of decedent's last illness, allowances, or claims against the estate. Texas Estates Code §356.101(a). The court may not order the sale of property that is subject to a specific legacy or exempt property. *Id.* §356.101(b).

The application to sell personal property should conform to the requirements for the application to sell real property, to the extent possible. *Id.* §356.102.

A sale of personal property must be reported to the court. *Id.* §356.105(a). A conveyance is not required, but otherwise the laws regulating confirmation or disapproval of a sale of real property apply. *Id.* §356.105(a). On request and at the cost of the purchaser, the dependent PR may issue a bill of sale without warranty. *Id.* §356.105(c).

See Appendix F for sample forms, as follows:

1. Application for Sale of Personal Property;
2. Order Authorizing Sale of Personal Property;
3. Report of Sale of Personal Property; and
4. Decree Confirming Sale of Personal Property.

VI. MINERAL LEASES

Although denominated "leases," mineral leases convey a fee simple determinable estate in real property. *Jupiter Oil Co. v. Snow*, 819 S.W.2d 466, 468 (Tex. 1991). Under the Texas Estates Code, a court may authorize a dependent PR to enter into mineral leases. §358.051.

A. Application

The dependent PR's lease application must fully describe the property, specify the interest owned by the estate, and set out the reasons the estate property in the application should be leased. *Id.* §358.052(b). The application does not need to name any proposed lessee or terms of any proposed lease. *Id.* §358.052(c).

B. Notice and Hearing

The court must set a hearing unless specific procedural requirements are followed. *Id.* §358.053. At least ten (10) days before the hearing, the dependent PR must give notice of the hearing by publication or posting if there is no newspaper of general circulation in the county. *Id.* §358.054(a). The notice must be dated, directed to everyone interested in the estate, state the date the application was filed, and describe briefly the property to be leased and the time and place designated by the judge for the hearing. *Id.* §358.054(c). Without the order designating a time and place for the hearing, notice by the dependent PR, proof of publication, posting, or any act to be

performed under a lease application is void. *Id.* §358.055.

C. Order

The court must issue an order if it considers the lease or leases to be in the best interest of the estate, is satisfied that the application is in proper form, proper notice has been given, the proof of the necessity or advisability of leasing is sufficient, and that the application should be granted. *Id.* §358.056(b). The order must contain the name of the lessee, any cash consideration to be paid by the lessee, a finding that the requirements have been satisfied, and state whether the dependent PR is exempt from giving a bond, the general bond is sufficient to protect the property on hand, or an increased bond amount necessary. *Id.* §§ 358.056(c) & 358.056(d). A complete copy of the lease(s) must be included with the order and show the name of the lessee, the date of the lease, an adequate description of the property being leased, any delay rental, and all other terms and provisions. *Id.* §358.056(e). If the date of the lease does not appear, the date of the order will be the date of the lease for all purposes. *Id.* §358.056(f). Pooling provisions, unitizations clauses, and cash consideration are not required. *Id.* §358.056(b).

If the dependent PR is required to give a general bond, a lease is not valid unless the order makes a finding regarding the general bond. If the general bond is insufficient, the bond must be increased or an additional bond given, and the court must approve the change. *Id.* §358.058.

D. Lease

The lease must be made within thirty (30) days of the order. *Id.* §358.057. The court may grant an extension on a sworn application showing good cause. *Id.* §358.057.

Without further order of the court, the dependent PR may execute division orders, transfer orders, instruments of correction, instruments designating depository banks for the payment of delay rentals or shut-in gas well royalties, and similar instruments. *Id.* §358.201.

E. Alternate Procedure for Order Without Notice

The court may authorize a lease without public notice or advertising if the court is of the opinion, based on facts set out in the application, that it would be more advantageous to the estate to make the lease privately. *Id.* §358.101. The court must hold a hearing between the fifth (5th) and eleventh (11th) days after the application. *Id.* §358.102(a). If satisfied that the lease has been made or will be made for fair and sufficient consideration, the court must enter an order authorizing the execution of the lease without advertising or notice. *Id.* §358.102(b). The order must otherwise comply

with the other requirements. *Id.* §358.102(b). The lease is not effective until any increased or additional bond required has been filed and approved. *Id.* §358.102(c). While this method has its advantages, it does require the practitioner to coordinate with the probate/county clerk to ensure that the pleadings are transferred to the court during the designated time period. While easily accomplished in person in the past, mandatory e-filing requirements may make this a challenge.

F. Non-Personal Representative

If the dependent PR fails to apply for authority for a lease, any interested person may apply to have the dependent PR cited to appear and show cause why it would not be in the best interest of the estate. *Id.* §358.251. If the court is satisfied from evidence that a lease would be in the best interest of the estate, the court must order the dependent PR to promptly file an application to lease the estate property. *Id.* §358.253.

G. Forms.

See Appendix G for sample forms, as follows:

1. Application to Lease Property for Mineral Exploration and Development; and
2. Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale.

VII. RENTING REAL PROPERTY

A. Order Not Required

A dependent PR may rent estate property for one (1) year or less without a court order. Texas Estates Code §357.001(a). But a dependent PR may seek a court order. *Id.* §357.002(a). Upon complaint of any person interested in the estate, the court is to ascertain the reasonable value of the rental of the property and require the dependent PR to account for it. *Id.* §357.001(b).

B. Order Required

A rental period greater than one (1) year requires a court order. *Id.* §357.002(a). While most residential leases may have a term of one (1) year or less, commercial leases typically do not.

1. Application

Written applications must state the property the dependent PR seeks to rent. *Id.* §357.002(a).

2. Order

If the court determines the application is in the best interest of the estate, the court must grant the application and enter an order that:

- a) describes the property to be rented;
- b) states whether the property will be rented at public auction or privately, and if auction, whether notice is to be published or posted;
- c) whether the property will be rented for cash or credit, and if on credit, the extent of the credit; and
- d) the period for which the property may be rented. *Id.* §§357.002(b) & 357.002(c).

3. Delivery

When rented on credit, possession is not to be delivered until the renter delivers a note with good personal security. *Id.* §357.003. The dependent PR and the sureties on the bond are liable for the full amount of rent if possession is delivered without the required security. *Id.* §357.003. A rental with installment payments in advance does not come under this requirement. *Id.* §357.003.

4. Report

The dependent PR must file a sworn, written report by the thirtieth (30th) day after property appraised at Three Thousand and No/100 Dollars (\$3,000.00) or more is rented. *Id.* §357.051(a). The report must state:

- a) the property is rented;
- b) its value;
- c) the date the property was rented;
- d) whether the rental occurred at public auction or privately;
- e) the name of each person renting the property;
- f) the rental amount; and
- g) whether the rental was for cash or credit, and if credit, the length of time, terms, and security received. *Id.* §357.051(a).

Property less than Three Thousand and No/100 Dollars (\$3,000.00) may be reported in the next annual or final account. *Id.* §357.051(b). If just and reasonable, the court must confirm and approve the report. *Id.* §357.052(a). If the court does not approve the report, the estate is not bound and the court may order another offering of the property to rent. *Id.* §357.052. If the court approves the report and it later appears the property was not rented for its reasonable value because of the fault of the dependent PR, the dependent PR and sureties on the bond must appear and show cause why they should not be responsible for the reasonable rental value. *Id.* §357.052(c).

5. Return of Property

Estate property that is rented must be returned in as good condition, excluding reasonable wear and tear, whether the rental was with or without a court order. *Id.* §357.004(a). The dependent PR must ensure the property is returned in that condition, report any loss or

damage to the property to the court, and ask the court for authority to take any necessary action. *Id.* §357.004(b). Failure of the dependent PR to do so makes the dependent PR and the sureties on the bond liable. *Id.* §357.004(c).

6. Non-personal Representative

Any person interested in the estate may complain and have the dependent PR appear and show cause why the representative did not rent the estate property. *Id.* §357.005(a). On hearing the complaint, the court must issue an order that appears to be in the best interest of the estate. *Id.* §357.005(b).

7. Forms.

See Appendix H for sample forms, as follows:

- a) Application for Lease of Real Property;
- b) Order Authorizing Lease of Real Property; and
- c) Report of Renting.

VIII. PARTITION AND DISTRIBUTION

When property is incapable of division in kind, or the heirs or beneficiaries request a distribution of the assets of the estate, Chapter 360 of the Texas Estates Code governs. The distributees pay the expenses of the estate's partition on a pro rata basis. Texas Estates Code §360.103.

A. **Application**

A dependent PR may apply for partition and distribution of the estate one (1) year after the original issuance of letters of administration. *Id.* §360.001(a). A dependent PR may apply for partition and distribution of any portion of the estate at any time after letters of administration are issued. *Id.* §360.002(a).

An application must state the decedent's name and the reasons why the estate should be partitioned and distributed. *Id.* §360.001(b). The application must also state the name and residence of each person entitled to receive a share of the estate and whether that person is an adult or a minor, or state that the applicant does not have knowledge of the fact. *Id.*

B. **Notice and Hearing**

On the filing of an application, the clerk must issue a citation that states the decedent's name, the date the court will hear the application, and require all interested persons to appear and show cause why the estate should not be partitioned and distributed. *Id.* §360.051(a).

Any person entitled to receive a share of the estate who is a resident of Texas and whose address is known, must be personally served. *Id.* §360.051(b)(1). Anyone whose address is not known, is not a resident of Texas, or is a resident of Texas but is not in the

state, must be served by publication. *Id.* §360.051(b)(2). In an application for partition and distribution of a portion of the estate, all interested parties, including known creditors, must be personally cited as in other distributions. *Id.* §360.002(b).

At the hearing, the court must determine the amount of the residue of the estate subject to partition and distribution, the persons entitled to a portion of the distribution and their respective shares, and whether an advance has been made to any person entitled to a portion of the distribution. *Id.* §360.101(a). If the court determines there was an advance, the court must determine the nature and value of the advance. *Id.* The residue subject to partition and distribution is all of the assets remaining on hand, less debts and expenses that have been approved or established by judgment but not paid or may be established by judgment in the future, and probable future expenses of administration. *Id.* §360.101(b).

If the court determines the estate should be partitioned and distributed, it must issue a decree. *Id.* §360.102. The decree must state the name and address, if known, of each person entitled to a share of the estate; which of them are minors; the names of the minors' guardians or guardians ad litem; the names of the attorney appointed to represent the unknown persons or the persons who reside out of state; the portion each person is entitled to; a full description of the estate to be distributed; and that the executor retain enough money to pay all debts, taxes, and expenses of administration and specifying the amount of money to be retained. *Id.* §360.102.

C. **Property Capable of Division**

If the estate does not consist entirely of money or debts due to it, and the court has not previously determined the estate is incapable of partition, the court must appoint three or more discreet and disinterested persons as commissioners to make a partition and distribution of the estate. *Id.* §360.151.

If the property is real estate capable of division without manifest injury to any distributee, the commissioners may allot to each distributee a share in each parcel, a share in one or more parcels, or one or more parcels separately with or without a share of other parcels. *Id.* §360.153(a)(1). This division is to be made in the manner most in the interest of the distributees. *Id.* §360.153(b). If the property is real estate not capable of a fair division in kind, the commissioners may make as near an equal division of real property as possible and supply the deficiency from money or personal property of the estate. *Id.* §360.153(a)(2). The commissioners must divide the money and personal property as nearly as possible into shares and determine by lot who receives each share. *Id.* §360.153(a)(3).

After dividing the property, at least a majority of the commissioners must make a written, sworn report to the court. *Id.* §360.154. The court must examine the report carefully, hear all exceptions and objections to the report and all evidence in favor of or against the report, and have any informality corrected. *Id.* §360.155. If the division appears to have been fairly made according to law and no valid exceptions are taken, the court must approve the division and enter a decree vesting title to each distributee of their respective share. *Id.* §360.155(c). Otherwise, the court may set aside the report and division and order a new partition be made. *Id.* §360.155(d).

D. Property Incapable of Division

If the court is of the opinion that all or a part of the estate is not capable of a fair and equal partition and distribution, it must make a special written finding specifying the property incapable of division. *Id.* §360.201. The court must order that the property not capable of division be sold. *Id.* §360.202(a). The sale must be made by the executor or PR in the same manner the Texas Estates Code provides for the sale of real property to satisfy estate debts. *Id.* §360.202(b).

The court must distribute the proceeds to the persons entitled to them. *Id.* §360.202(c). If a distributee buys the property, the distributee only has to pay or secure the amount their bid exceeds their share of the property. *Id.* §360.202(d).

E. Special Cases

If the estate consists entirely of money or debt due the estate, the court must set the amount each distributee is entitled to and order the executor or PR to deliver that amount. *Id.* §360.251.

If property is located in another county and cannot be fairly partitioned, the commissioners may report that to the court. *Id.* §360.252(a). The court may then order a sale of the property in the manner of property incapable of division if the court is satisfied the property cannot fairly be divided or that the sale of the property would be more advantageous to the distributees. *Id.* §360.252(b). If the court is not convinced that the property cannot be fairly partitioned or that sale would be more advantageous to the distributees, it may appoint three (3) or more commissioners in each county in which the property is located to partition it as property capable of division. *Id.* §360.252.

A surviving spouse may apply to partition community property after letters testamentary have issued and an inventory, appraisal and list of claims has been returned or an affidavit in lieu thereof. *Id.* §360.253(a). The surviving spouse must execute and deliver a bond equal to the surviving spouse's interest in the community property and conditioned on the payment of half of all debts existing against the

community property. *Id.* §360.253(b). The bond must be issued by a corporate surety or two (2) good and sufficient personal sureties and payable to, and approved by, the presiding judge. *Id.* The court must partition the community property into equal parts, one to be delivered to the surviving spouse and one to be delivered to the executor or administrator. *Id.* §360.253(c). The usual partition and distribution provisions apply to the extent applicable. *Id.* §360.253(e). A lien on the property delivered to the surviving spouse secures payment of the bond. *Id.* §360.253(d)(1).

A person who held property jointly with the decedent may apply to partition the joint property after letters testamentary have issued. *Id.* §360.254(a). The court must partition the property between the applicant and the decedent's estate. *Id.* §360.254(b). The usual partition and distribution provisions apply to the extent applicable. *Id.* §360.254(c).

F. Non-Personal Representatives

Heirs and devisees may also apply for partition and distribution of the estate after a year since letters testamentary issued, *Id.* §360.001, or of any portion of the estate at any time after letters testamentary are issued. *Id.* §360.002.

When someone other than the executor or administrator applies for partition and distribution, the executor or administrator must answer the application and file a verified exhibit and account of the condition of the estate in the same manner as a final settlement. *Id.* §360.052.

If the executor or administrator neglects to deliver property ordered to be delivered after the person entitled to it demands it, that person may file a complaint with the court that states the relevant facts. *Id.* §360.301(a). The clerk must cite the executor or administrator to appear and answer. *Id.* §360.301(b). An executor or administrator found guilty of the neglect alleged is liable for damages of ten percent (10%) of the amount wrongfully withheld each month or fraction of a month from the date of demand. *Id.* §360.301(d).

G. Forms.

See Appendix I for sample forms, as follows:

1. Application for Partition and Sale of Real Property; and
2. Order on Application for Partition and Sale of Real Property.

IX. ACCOUNT FOR FINAL SETTLEMENT AND CLOSING

In independent administrations, it is typical to leave the administration open even after the decedent's affairs are settled. In dependent administrations, at

some point they need to be closed by order of the court. Before the estate can be closed, and before the remaining assets can be distributed to the proper distributees, the dependent PR must prepare and file an account for final settlement. Texas Estates Code §362.003.

A. Account for Final Settlement

1. Contents

Administrations of decedent's estates are to be settled and closed when all the debts known to exist against the estate have been paid, or paid so far as the assets of the estate will permit, and when there is no further need for administration §362.001. The final account is very similar to an annual account, and for that reason, the specific requirements for the pleading covered in Section IV will not be repeated here. A few important distinctions, however, should be pointed out. First, any assets received since the last annual account should be carefully described item by item and, where possible, vouchers should be attached. Also, distributions of property may be referenced to previous proceedings in the administration, including sales, leasing or other relevant transactions. Relevant exhibits, accounts and vouchers which have been previously filed and approved may also be adopted by reference.

Any debts, obligations or expenses incurred or which have come to the dependent PR's attention since the last annual account, or which for some other reason cannot be supported by reference to a former account or proceeding, should be supported by vouchers and set out in sufficient detail to show that such debts have either been paid or are valid charges against the estate. This category is particularly important as it details liabilities to either be dealt with in closing the estate or to be distributed, along with the assets, to the persons determined to be entitled to the estate.

If the estate is one which will owe State of Texas Inheritance Taxes upon final settlement, the final account may not be approved, and the estate may not be closed, until the court finds proof that all inheritance taxes due and owing have been paid. §362.010.

Also, it is a good idea to include the cash balances and securities remaining on hand to be verified as of the closing date of the account by letter, certificate or affidavit in the manner required by §359.003 for annual accounts. This will be the total estate which is to be distributed to the distributees upon approval of the final account.

Finally, include the names of the persons entitled to receive the estate, their relationship to the decedent, their addresses, if known, and whether or not they are minors or incapacitated (if so, the names of their guardians, if any, should also be included). All advancements or payments which have been made from the estate to any distributee should be indicated.

The prayer of the final account has its sights set on the end of the journey. In the final account, the court is asked to do several things in a certain order:

1. to audit, settle and approve the account;
2. to order payment of remaining unpaid debts of the estate or find that the guardian has made adequate provision therefor;
3. to order the delivery of the remaining estate property to the distributees.

Because the final account ends on an arbitrary date (when the personal representative believes the estate can be closed), the assets will still be in the banks and brokerage firms at the cut-off date. The personal representative should select a convenient date to end the accounting period, obtain vouchers from the financial institutions, and prepare the final account.

A major difference between annual accounts and final accounts is the requirement of citation on the final account. *Id.* §362.005. Upon the filing of a final account, the clerk shall issue citation stating that the final account has been filed, when and where it will be considered by the court, and requiring the person cited to appear and contest the final account if they wish.

2. Forms

See Appendix J for sample forms, as follows:

- a) Account for Final Settlement; and
- b) Order Approving Account for Final Settlement.

B. Closing and Discharge

Once the court approves the final account, it will enter an order directing the PR to pay any remaining approved debts and to distribute the assets to the distributees. Unlike an independent PR, a dependent PR can require the distributee to give a release to the PR as consideration for the delivery of the inheritance. §405.002(b). A PR should make every effort to get the receipt and release signed simultaneously with the delivery of the assets.

Once each distributee has signed a receipt and release, the only remaining step is to officially close the estate. Only then will the dependent PR's responsibilities be concluded, and it is at that time the PR will be released from his or her bond.

Thus, once the distributions are completed, the dependent PR should file an application to close the estate requesting the court to enter an order discharging the representative. *Id.* §362.013. Once the order has been signed by the court, a copy should be sent to the bonding company in order to terminate the bond.

See Appendix K for sample forms, as follows:

1. Application to Close Estate and to Discharge Personal Representative; and
2. Order Closing Estate and Discharging Personal Representative.

X. CONCLUSION

The dependent administration of an estate is one of the more complicated and difficult procedures that a probate lawyer encounters. That said, they are not to be feared or avoided at all costs because when understood and properly utilized, their many advantages can offer good solutions for certain estates. If dependent administrations present themselves in your practice, hopefully this paper and sample documents will provide helpful guidance.

The authors wish to sincerely thank Judge Steve M. King for his contributions to this outline.

APPENDIX A.(1)**[Insert Style of Case]****APPLICATION FOR APPOINTMENT OF TEMPORARY ADMINISTRATOR**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes [Name] ("Applicant") and pursuant to Chapter 452 of the Texas Estates Code, would respectfully show the Court as follows:

I.

[Decedent] ("Decedent") died on or about [Date] in [County, State] at the age of [Age] years. Decedent's principal estate is situated in [County] County, Texas, which gives this Court jurisdiction and venue. Applicant believes that Decedent died intestate. The last three digits of Decedent's social security number are _____, and the last three digits of his or her driver's license are _____.

II.

Applicant herein is a person interested in said estate by reason that Applicant's company, [Company], was hired by Decedent in April of 1994 to manage the real property owned by Decedent in [County] County, Texas, as well as its tenants. Applicant has a pecuniary interest in the Decedent's estate as said contractual agreement remained in force until the Decedent's death.

III.

Under Section 452.001 of the Texas Estates Code, the Court may appoint a temporary administrator if the Court determines there is an immediate need to appoint a temporary administrator with powers limited as to the circumstances of the case. Applicant would show that there is an immediate need for the appointment of a temporary administrator because since the date of death of Decedent, no family members have been located, and there is no one with authority to act on behalf of Decedent and/or his estate with respect to his real estate interests. Decedent's real estate interest in [County] County, Texas, is valued at approximately [Amount], and such property continues to generate income and requires continual maintenance and upkeep. Further, the County of Los Angeles, California, will not release a death certificate to Applicant without proper authority, and it has come to Applicant's knowledge that the Decedent may have not completed and filed his income tax returns and maybe entitled to sizable refund. Applicant has no knowledge of Decedent's family history and needs proper authority to hire a search firm to locate the heirs of Decedent.

IV.

The principal objective of a temporary administrator is to preserve the estate until it can pass into the hands of a person fully authorized to administer it for the benefit of the creditors, heirs, devisees and legatees. Towards this end, Applicant requests that the temporary administrator be given the following powers and authority:

1. The authority to make demand for and obtain custody, possession, and safekeeping of the real and personal property of the Estate, including without limitation any and all accounts and records of financial institutions;
2. The authority to insure the property of the Estate (liability and property damage coverage) subject to available funds;

3. The authority to sell real and/or personal property, in the form and manner required by law and subject to specific orders and approval of the Court;
4. The power to pay obligations of the Estate, subject to specific orders and approval by the Court;
5. The authority to open a bank account in the name of Decedent's Estate;
6. The power to file tax returns for the Estate and Decedent and to pay any taxes from the property of the Estate;
7. The authority to employ attorneys, accountants, appraisers, and other professional help reasonably needed to administer this Estate, and for the preparation of income tax returns and collection of any refunds to Decedent or his estate;
8. The authority to obtain information and documents from any entity or fiduciary holding assets in which Decedent had an ownership or beneficial interest at the time of death;
9. The authority to obtain any medical, dental, psychiatric, and/or other confidential records of the Decedent, including a death certificate;
10. The authority to execute and provide releases for any medical, dental, psychiatric, and/or other confidential records of the Decedent as reasonably necessary to facilitate the administration of the Decedent's Estate;
11. The authority to hire a search firm to locate the heirs of Decedent; and
12. To have such other and further powers as may, from time to time, be ordered of this Court after notice to all parties.

V.

Applicant, whose address is [Address], hereby requests that he, or some suitable person or entity, be named temporary administrator. The last three digits of Applicant's social security number are ____, and the last three digits of his or her driver's license are _____. Applicant is not disqualified by law from serving as a temporary administrator and is entitled to letters of temporary administration.

VI.

At the time of his death Decedent owned real property in [County] County, Texas, valued at approximately [Amount] and a bank account with a balance of approximately [Amount]. No other information is known about Decedent's estate at this time.

WHEREFORE, PREMISES CONSIDERED, Applicant prays that the Court enter an order appointing Applicant, or another person or entity deemed suitable by the Court, as temporary administrator herein with the powers set forth above and such other powers that the Court deems appropriate, and that Applicant have such other and further relief, either at law or in equity, that the Court deems appropriate.

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX A.(2)

[Insert Style of Case]

ORDER APPOINTING TEMPORARY ADMINISTRATOR

On this day came on to be heard and considered the Application for Appointment of Temporary Administrator filed in the above-entitled and numbered cause on [Date]by [Name] (“Applicant”).

The Court, having heard the arguments of counsel and considering the pleadings on file, finds as follows:

1. That this Court has the jurisdiction and venue over the Decedent’s estate;
2. That an immediate necessity exists for the appointment of a temporary administrator;
3. That [Name] is a suitable person to be appointed and is not disqualified by law from serving as Temporary Administrator of this Estate and is entitled to Letters of Temporary Administration;
4. That Decedent died in [County, State], at the age of [Age] years; and
5. That four (4) years have not elapsed since the Decedent’s death.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that [Name] be and is hereby appointed the Temporary Administrator of the Estate of [Decedent], Deceased, and that Letters of Temporary Administration be issued to him upon execution of a bond in the sum of \$_____, which is the proper sum hereby ordered and affixed in accordance with the requirements of law, payable and conditioned as required by law, and upon taking the Oath of Office as required by law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that BRADLEY W. QUINE shall have the following specific powers and authority as Temporary Administrator of the Estate of RONALD DAN BACHRACH, Deceased:

1. The authority to make demand for and obtain custody, possession, and safekeeping of the real and personal property of the Estate, including without limitation any and all accounts and records of financial institutions;
2. The authority to insure the property of the Estate (liability and property damage coverage) subject to available funds;
3. The authority to sell real and/or personal property, in the form and manner required by law and subject to specific orders and approval of the Court;
4. The power to pay obligations of the Estate, subject to specific orders and approval by the Court;
5. The authority to open a bank account in the name of Decedent’s Estate;
6. The power to file tax returns for the Estate and Decedent and to pay any taxes from the property of the Estate;

7. The authority to employ attorneys, accountants, appraisers, and other professional help reasonably needed to administer this Estate, and for the preparation of income tax returns and collection of any refunds to Decedent or his estate;
8. The authority to obtain information and documents from any entity or fiduciary holding assets in which Decedent had an ownership or beneficial interest at the time of death;
9. The authority to obtain any medical, dental, psychiatric, and/or other confidential records of the Decedent, including a death certificate;
10. The authority to execute and provide releases for any medical, dental, psychiatric, and/or other confidential records of the Decedent as reasonably necessary to facilitate the administration of the Decedent's Estate;
11. The authority to hire a search firm to locate the heirs of Decedent, in the form and manner required by law and subject to specific orders and approval of the Court; and
12. To have such other and further powers as may, from time to time, be ordered of this Court after notice to all parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Temporary Administration shall continue for a period not to exceed 180 days, unless the appointment is made permanent pursuant to Section 452.008 of the Texas Estates Code.

SIGNED the _____ day of May, 2017.

JUDGE PRESIDING

LAW FIRM

[Signature Block]

APPENDIX B.(1)

[Insert Style of Case]

APPLICATION FOR LETTERS OF DEPENDENT ADMINISTRATION

[Applicant] (“Applicant”), who resides at [Address], furnishes the following information to the Court:

1. Applicant is someone interested in this estate. His or her address is [Address]. The last three digits of Applicant’s social security number are ____, and the last three digits of his or her driver’s license are _____. [Decedent] (“Decedent”) died on _____, _____, at [City], [County] County, Texas, at the age of [Age] years.
2. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this County on the date of death.
3. Decedent owned real and personal property described generally as a home, other real property, cash, and assorted personal effects of a probable value in excess of \$10,000.00.
4. Decedent was divorced from [Name] on [Date]. Decedent then married [Name], and no children were born or adopted during that marriage. Decedent was survived by [Name]. The last three digits of Decedent’s social security number are ____ and the last three digits of his or her driver’s license are _____.
5. To the best of Applicant’s knowledge, Decedent died intestate. A necessity exists for the administration of this estate, and Applicant requests that he or she be appointed as Dependent Administrator of the Estate.
6. There is no need for the appointment of appraisers.
7. This application does not omit any information required by Estates Code § 202.005.

Applicant prays that citation will issue as required by law; that upon hearing hereof, that Applicant be appointed Dependent Administrator of this Estate; that Letters of Dependent Administration be issued to Applicant; that bond be set in a sufficient amount by the Court; that appraisers not be appointed; and that all other orders be entered as the Court may deem proper.

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX B.(2)

[Insert Style of Case]

ORDER AUTHORIZING LETTERS OF DEPENDENT ADMINISTRATION

On this day came on to be heard the Application for Letters of Dependent Administration of the Estate of [Decedent], Deceased (“Decedent”), wherein [Applicant] is the Applicant, and it appears to the Court, and the Court so finds, that all parties interested in the Estate of Decedent have been made parties to the Application; that this Court has jurisdiction of the subject matter and all persons and all parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate; that there is a necessity for administration of this Estate; that the Application for Letters of Dependent Administration should be granted; that Applicant is entitled by law to be appointed Dependent Administrator of this Estate and is not disqualified from acting as such Dependent Administrator, and is qualified to receive Letters of Dependent Administration; and that no interested person has applied for the appointment of appraisers and none are deemed necessary by the Court.

It is ORDERED that bond be posted by the Dependent Administrator in the amount of [Amount], conditioned as required by law. It is further ORDERED that upon the taking and filing of the Oath required by law and the approval of the bond, Letters of Dependent Administration shall issue to [Applicant], who is appointed as Dependent Administrator of this Estate.

SIGNED this _____ day of _____, _____.

JUDGE PRESIDING

APPROVED:

LAW FIRM

[Signature Block]

APPENDIX C.(1)

[Insert Style of Case]

INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS

TO THE HONORABLE JUDGE OF SAID COURT:

The following is a full, true and complete Inventory and Appraisement of all personal property and of all real property of the Decedent/Ward situated in this state, valued at the fair market value thereof as of the date of qualification of your Personal Representative/Guardian, together with a List of Claims due and owing to this Estate as of the date of qualification of your Personal Representative/Guardian, which have come to the possession or knowledge of the undersigned.

All of the property owned by Decedent/Ward, as set forth hereinafter, consists of community property. All values shown are the Decedent's/Ward's one-half community interest.

REAL PROPERTY

Residential homestead and improvements located at:

\$ _____

[Description]

Ward's one-half community interest shown (valuation based on appraisal district records)

80 acres, being the:

[Description]

Unimproved pasture.

Ward is owner of 1/4 of the total parcel.

\$ _____

TOTAL REAL PROPERTY

\$ _____

PERSONAL PROPERTY

Cash in Banks:

Educational Employees Credit Union

Fort Worth, Texas

Savings Account No. XXXX6011

\$ _____

Cert. of Deposit No. XXXX9095

\$ _____

TOTAL CASH IN BANKS

\$ _____

Miscellaneous:

1982 Nissan Sentra VINXXXXXXXX047294

\$ _____

1991 Lone Star Bass boat - IDXXX5882	
\$ _____	
Household furnishing and personal effects	
\$ _____	
TOTAL MISCELLANEOUS	\$ _____
TOTAL CASH IN BANKS	\$ _____
TOTAL MISCELLANEOUS	\$ _____
TOTAL PERSONAL PROPERTY	\$ _____
TOTAL REAL PROPERTY	\$ _____
TOTAL PERSONAL PROPERTY	\$ _____
TOTAL PROPERTY OF ESTATE	\$ _____

LIST OF CLAIMS

The following claims are due, or owing to, the Estate:

Unsecured note, dated 1/1/92 balance as of date of qualification	\$ _____
held by John Jones 1346 S. 14th, Dallas, TX, rate: 8.375%, term 10 years, final payment due 12/31/95	
- Ward is owner of 50% of the note.	
\$ _____	
TOTAL CLAIMS DUE ESTATE	\$ _____

The foregoing Inventory, Appraisalment and List of Claims should be approved and ordered entered of record.

Respectfully submitted,

Personal Representative / Guardian

STATE OF TEXAS)

COUNTY OF [County])

BEFORE ME, the undersigned authority, on this day personally appeared [Name], who being by first duly sworn, stated as follows:

I am [Name], Personal Representative/ Guardian of the Estate above-referenced. I have personal knowledge of the facts written in this statement. the foregoing Inventory,

Appraisalment and List of Claims are a true and complete statement of the property and claims of the Estate of which I have knowledge.

[Name], Personal Representative / Guardian

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, by [Name] on _____, to certify which witness my hand and seal of office.

Notary

APPENDIX C.(2)

[Insert Style of Case]

ORDER APPROVING INVENTORY, APPRAISEMENT AND LIST OF CLAIMS

The foregoing Inventory, Appraisement and List of Claims of the above Estate having been filed and presented and the Court having considered and examined the same and being satisfied that it should be approved and there having been no objections made thereto, it is in all respects APPROVED and ORDERED entered of record.

SIGNED on the _____.

JUDGE PRESIDING

LAW FIRM

[Signature Block]

APPENDIX D.(1)

[Insert Style of Case]

ANNUAL ACCOUNT FOR THE PERIOD OF _____ THROUGH _____

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES _____, (Administrator or Guardian) herein, and respectfully presents this verified exhibit pursuant to the provisions of Texas Estates Code §§ 359.001/1163.001.

1. PERIOD OF ACCOUNT. This accounting covers the period shown above.
2. OPENING FIGURES. The property of the Estate, as shown on
 - the Inventory, Appraisalment & List of Claims (*or*)
 - the last Annual Accounting

approved on _____, was as follows:

<u>REAL PROPERTY</u>		
_____	\$ _____.	
_____	\$ _____.	
TOTAL REAL PROPERTY		\$ _____.
<u>PERSONAL PROPERTY</u> Confirmations of securities are attached.		
_____	\$ _____.	
_____	\$ _____.	
TOTAL PERSONAL PROPERTY		\$ _____.
<u>CASH ON HAND</u> Listed by account number and bank location.		
_____	\$ _____.	
_____	\$ _____.	
TOTAL CASH ON HAND		\$ _____.
OPENING FIGURES - TOTAL PROPERTY AND CASH ON HAND		\$ _____.

3. PROPERTY NOT PREVIOUSLY REPORTED. The following property has come into the hands of your (Administrator or Guardian) which has not been previously reported to the Court:

<input type="checkbox"/> None, (<i>or</i>)		
<input type="checkbox"/> _____	\$ _____.	
_____	\$ _____.	
TOTAL PROPERTY NOT PREVIOUSLY REPORTED		\$ _____.

4. CHANGES. The following changes have occurred in the condition of the Estate which have not been previously listed or inventoried:

- None, (or)
 - A. By Order signed _____ \$ _____.
 - _____ B. By Order signed _____ \$ _____.
 - _____ C. _____ \$ _____.
- TOTAL CHANGES IN PROPERTY \$ _____.

5. RECEIPTS. The receipts of the Estate are as shown in the attached Exhibit "A", and are summarized as follows:

- Interest on Estate Accounts \$ _____.
 - Refunds \$ _____.
 - Rental Income \$ _____.
 - Dividends \$ _____.
 - Proceeds from Sale of Estate Assets \$ _____.
 - _____ \$ _____.
 - _____ \$ _____.
 - _____ \$ _____.
- TOTAL RECEIPTS \$ _____.

6. DISBURSEMENTS. The disbursements of the Estate are as shown in the attached Exhibit "B", and are summarized as follows:

- Attorney's Fees \$ _____.
 - Bond Premium \$ _____.
 - Bank Charges \$ _____.
 - Taxes \$ _____.
 - Expenditures authorized by Court Order \$ _____.
 - _____ \$ _____.
 - _____ \$ _____.
 - _____ \$ _____.
- TOTAL DISBURSEMENTS \$ _____.

7. PROPERTY AND CASH ON HAND. The property currently being administered and cash remaining in the hands of your Administrator is as follows:

- REAL PROPERTY
- _____ \$ _____.
 - _____ \$ _____.
 - _____ \$ _____.
- TOTAL REAL PROPERTY \$ _____.
- PERSONAL PROPERTY Confirmations of securities are attached.
- _____ \$ _____.
 - _____ \$ _____.
 - _____ \$ _____.
- TOTAL PERSONAL PROPERTY \$ _____.
- CASH ON HAND Verifications are attached.
- _____ \$ _____.
 - _____ \$ _____.

_____ \$ _____

 TOTAL CASH ON HAND \$ _____
 TOTAL PROPERTY AND CASH ON HAND \$ _____

8. SAFEKEEPING. The following assets belonging to the estate are being held subject to safekeeping agreements: Confirmations of safekeeping are attached.

None, (or)
 _____ \$ _____
 _____ \$ _____

 TOTAL ASSETS IN SAFEKEEPING \$ _____

9. CLAIMS. The claims which have been presented against the estate are as follows:

None, (or)

Claimant's Name & Address	Nature of Claim	Amount Allowed and Approved	Amount Rejected	Amount Paid	Amount Allowed But Not Paid
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
TOTAL CLAIMS					\$ _____

10. UNPAID DEBTS The following debts and expenses of the estate have not been paid and are presently due and owed by the Estate:

None, (or)
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____

 TOTAL UNPAID DEBTS \$ _____

11. OTHER FACTS NECESSARY FOR A FULL UNDERSTANDING OF THE CONDITION OF THE ESTATE, INCLUDING, BUT NOT LIMITED TO THE PAYMENT OF INSURANCE AND TAXES, IF ANY, ON ASSETS OF THE ESTATE:

12. RECONCILIATION. The following is a summary and reconciliation of the foregoing paragraphs of this account:

	CASH	TOTAL ESTATE
12.2. OPENING FIGURES	\$ _____	\$ _____
12.3. PROPERTY NOT PREVIOUSLY REPORTED	_____	_____
12.4. CHANGES IN PROPERTY	_____	_____
12.5. RECEIPTS	_____	_____
12.6. DISBURSEMENTS	(_____)	(_____)
TOTAL 12.2 THROUGH 12.6	_____	\$ _____
12.7. PROPERTY AND CASH ON HAND	_____	_____
12.8. ASSETS IN SAFEKEEPING	_____	_____
TOTAL 12.7 THROUGH 12.8	\$ _____	\$ _____
12.9. CLAIMS	_____	_____
12.10. UNPAID DEBTS AND EXPENSES	_____	(_____)
TOTAL NET VALUE OF ESTATE	_____	\$ _____

Respectfully submitted,

_____, Administrator
 _____, Administrator
 THE STATE OF TEXAS }
 COUNTY OF [COUNTY] }

(Administrator or Guardian), _____, being first duly sworn, upon his/her oath, deposes and says that:

I am the (Administrator or Guardian) in the above entitled and numbered cause. I have read and examined the foregoing Annual Account which is to be filed in this cause and:

- A. *The account contains a true, correct and complete statement of the matters to which the account relates;*
- B. *the Administrator has paid the bond premium for the next accounting period;*
- C. *the Administrator has filed all tax returns of the Estate due during the accounting period; and*
- D. *no taxes were owed by the Estate during the accounting period. (or)*
 the (Administrator or Guardian) has paid all taxes the Estate owed during the accounting period,
 - 1. *the amount of the taxes was \$_____;*
 - 2. *the date the (Administrator or Guardian) paid the taxes was _____;*
 - 3. *the governmental entity to which the taxes were paid was _____.* (or) *the (Administrator or Guardian) has NOT paid all taxes the Estate owed during the accounting period, (or)*
 the (Administrator or Guardian) has NOT filed all tax returns of the Estate due during the accounting period for the reason that

_____, Administrator or
 _____, Administrator or
 Guardian

SWORN TO AND SUBSCRIBED this _____.

Notary Public

Verification of Funds on Deposit

The undersigned, an officer of the financial institution named below, hereby certifies that _____, Administrator of this Estate, had on deposit with this institution as of _____ in the following accounts, the amounts shown below:

Checking Account No. _____ \$ _____
Savings Account No. _____ \$ _____
Certificate of Deposit No. _____ \$ _____

SIGNED _____

Fort Worth, Texas

By _____
Name: _____
Title: _____

Verification of Securities

The undersigned, an officer of the financial institution named below, hereby certifies that [Name], Administrator of this Estate, had on deposit with _____ as of _____ in the following assets:

\$ _____

\$ _____

\$ _____

\$ _____

SIGNED _____

_____ Bank
Fort Worth, Texas

By _____
Name: _____
Title: _____

Confirmation of Safekeeping

The undersigned, an officer of the financial institution named below, hereby certifies that _____, Administrator of this Estate, had on deposit with _____ as of _____ in the following accounts, the following described securities or other assets held subject to orders of the Court:

Checking Account No. _____ \$ _____
Savings Account No. _____ \$ _____
Certificate of Deposit No. _____ \$ _____

\$ _____
\$ _____

SIGNED _____

_____ Bank
Fort Worth, Texas
By _____
Name: _____
Title: _____

APPENDIX D.(2)

[Insert Style of Case]

ORDER APPROVING ANNUAL ACCOUNTING

On this day the Annual Account of this Estate was heard and considered by the Court, and after examining the Account and hearing the evidence in support of same, the Court finds as follows:

- 1. That the Court has jurisdiction of this proceeding and of the subject matter as required by law;
- 2. The Annual Accounting has remained on file for a full ten days before being considered;
- 3. The Court has now been fully advised on all items of the account and possession of cash and other assets kept in safekeeping as well as those on deposit having been duly proved as required by law;
- 4. The Court is satisfied that the facts stated in the account are true, correct and complete; and
- 5. That the Annual Account has been audited and settled by the Court, complies with the law in every respect, and should be approved as filed;
- 6. (additional provisions as needed)

—

—

—

IT IS, THEREFORE, ORDERED ADJUDGED AND DECREED that the Annual Account filed herein by Administrator on or about _____ is hereby APPROVED.

SIGNED _____

JUDGE PRESIDING

LAW FIRM

[Signature block]

APPENDIX E. (1)

[Insert Style of Case]

APPLICATION FOR SALE OF REAL PROPERTY

[Name], Administrator of the Estate of [Decedent], Deceased, files this Application for Sale of Real Property, and represents as follows:

1. The Inventory, Appraisal and List of Claims of this estate was filed with this Court on [Date], and has been approved.

2. The legal description of the real property sought to be sold is [Description]. The sale includes only the following portion of the interest of Decedent [Interest] OR the entire interest of Decedent in the property.

3. This application is accompanied with a statement (Exhibit "A"), verified by affidavit, showing fully and in detail the condition of this estate and containing all other information required by § 356.252 of the Tex. Est. Code.

4. The sale of the property is to pay expenses of administration of the estate, pay debts and claims against the estate because the estate owns only an undivided interest in the property, and it is in the best interest of the estate to sell this undivided interest. Further, the property is nonproductive. Any improvement of the property for the purpose of making it more productive would not be advantageous or advisable, and sale of the property and investment of the net proceeds of the sale would be in the best interest of the estate.

5. It will be in the best interest of this estate for the property to be sold at a private sale, and the sale should be for cash. It will also be in the best interest of the estate for Administrator to be allowed to pay a commission of up to six percent (6%) of the gross proceeds received from the sale of the property.

Bond is/is not sufficient, but will be increased when a Report of Sale is filed.

WHEREFORE, Administrator requests that citation be issued as required by law and that, after a hearing on this Application, the Court enter an Order authorizing Administrator to sell the property at a private sale on the terms set forth above.

Respectfully submitted,

LAW FIRM

[Signature block]

[CERTIFICATE OF SERVICE]

EXHIBIT “A”

VERIFIED EXHIBIT SHOWING CONDITION OF ESTATE

THE STATE OF TEXAS §
 §
 COUNTY OF [Name] §

On this day [Name], Affiant, personally appeared before me and after being duly sworn, stated the following:

1. Affiant is the duly appointed and qualified Administrator/rix of the Estate of [Decedent], Deceased, and in support of Affiant’s Application for Sale of Real Property, Affiant submits this exhibit to the Court showing fully and in detail the condition of the estate, as follows:

a. Property of the Estate.

The following is a full and complete list, to the Affiant’s knowledge and belief, of all property of the estate still remaining on hand and liable for the payment of the expenses of the estate:

<u>Description of Property</u>	<u>Value of Property</u>
TOTAL VALUE OF PROPERTY	
REMAINING ON HAND	[Amount]

b. There have been no claims presented against the Estate, but the Estate is indebted to: [Details]

2. The sale sought in the foregoing Application is necessary and advisable. Further, the property does not produce sufficient revenue to make a fair return upon the value of the real estate and is a further drain on the assets of the Estate.

 [Name], Affiant

THE STATE OF TEXAS §
 §
 COUNTY OF [Name] §

SWORN TO AND SUBSCRIBED BEFORE ME by [Name] on this [Date].

 Notary Public, State of Texas

APPENDIX E.(2)

[Insert Style of Case]

ORDER AUTHORIZING SALE OF REAL PROPERTY

On this day, the Application for Sale of Real Property filed by the Administrator of the Estate of [Decedent], Deceased, was heard and considered by the Court, and, after hearing the evidence in support of the application, the Court finds as follows:

1. Citation has been issued and served as required by law, and no one contested the application.
2. The application is accompanied by an exhibit, verified by affidavit, showing the condition of the estate, and the application and exhibit meet the requirements of § 356.252 of the Tex. Est. Code.
3. A legal description of the real property to be sold is: [Description].
4. The general bond of Administrator is insufficient, but should not be increased until such time as a Report of Sale is filed with this Court. The general bond of Administrator is sufficient.
5. The Application should be granted, and the property should be sold.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the property described in this Order shall be sold at private sale for cash.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a six percent (6%) commission shall be allowed for the sale of the property.

IT IS FURTHER ORDERED that no additional bond shall be required of Administratrix/or at this time, and that after the sale has been made, a Report of Sale shall be returned as required by law. [...and the bond shall be increased by the amount of the net proceeds of the sale before a decree confirming the sale is entered.]

Signed: [Date]

Judge Presiding

APPENDIX E. (3)

[Insert Style of Case]

REPORT OF SALE OF REAL PROPERTY

[Name], Administrator of the Estate of [Decedent], Deceased, reports the following:

1. The Order Authorizing Sale of Real Property in this Estate is dated [Date].
2. The legal description of the real property to be sold is as follows: [Description].
3. A contract to sell the property at private sale was executed on [Date]. The name of the purchaser is [Name]. The total sales price of the property is [Amount]. A copy of such contract is attached hereto as Exhibit "A".
4. An appraisal of the property is attached hereto as Exhibit "B"; OR

An independent statement from [Name] is attached hereto as Exhibit "B", verifying that the sales price is fair and reasonable.

5. The terms of the sale are: [Terms]. The estate will receive net proceeds in the approximate amount of [Amount].
6. The purchaser is ready to comply with the Order Authorizing Sale.

Respectfully submitted,

 [Name],
 Administrator of the Estate of

[Decedent]

THE STATE OF TEXAS §
 §
 COUNTY OF [Name] §

SWORN TO AND SUBSCRIBED BEFORE ME by [Name] on this [Date].

 Notary Public, State of Texas

LAW FIRM

[Signature Block]

CERTIFICATE OF SERVICE

APPENDIX E. (4)

[Insert Style of Case]

DECREE CONFIRMING SALE OF REAL PROPERTY

On this day the Court heard and considered the Report of Sale of Real Property filed herein on [Date], and the Court finds that five (5) days have expired since the filing of the Report; that the General Bond is sufficient to protect Decedent's estate and is in compliance with the Court's previous Order Authorizing Sale and with the law; and that the real property has been sold for a fair price and such sale was properly made and in conformity with the law. The property is described as follows:

[Legal Description]

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the sale described in the Report is hereby approved and confirmed.

Signed: [Date]

Judge Presiding

APPENDIX F.(1)

[Insert Style of Case]

APPLICATION FOR SALE OF PERSONAL PROPERTY

[Name], Administrator of the Estate of [Decedent], Deceased, files this Application for Sale of Personal Property, and represents as follows:

1. The Inventory, Appraisal and List of Claims of this Estate was filed with this Court and approved on [Date].
2. The personal property sought to be sold is as follows: [Description]
3. The sale of this property is necessary because if the property is not sold, it will deteriorate in value and will be an expense and disadvantage to the Estate.
4. This application is accompanied with a statement (Exhibit "A"), verified by Affidavit, showing fully and in detail the condition of the Decedent's Estate and containing all other information as required by § 356.252 of the Tex. Est. Code.
5. It is in the best interest of this Estate for the property to be sold at private sale, and the sale should be for cash, with a reasonable commission allowed a professional estate sale service to sell the property.
6. Bond is\is not sufficient, but will be increased when a Report of Sale is filed.

Administrator requests that the Court enter an Order authorizing Administrator to sell the property at private sale on the terms set forth above.

Respectfully submitted,

LAW FIRM

[Signature Block]

EXHIBIT “A”

VERIFIED EXHIBIT SHOWING CONDITION OF ESTATE

THE STATE OF TEXAS §
 §
 COUNTY OF [Name] §

On this day [Name], Affiant, personally appeared before me and after being duly sworn, stated the following:

1. Affiant is the duly appointed and qualified Administrator/rix of the Estate of [Decedent], Deceased, and in support of Affiant’s Application for Sale of Personal Property, Affiant submits this exhibit to the Court showing fully and in detail the condition of the Estate, as follows:

a. Property of the Estate.

The following is a full and complete list, to the Affiant’s knowledge and belief, of all property of the estate still remaining on hand and liable for the payment of the expenses of the estate:

<u>of Property</u>	<u>Description of Property</u>	<u>Value</u>
--------------------	--------------------------------	--------------

TOTAL VALUE OF PROPERTY REMAINING ON HAND
 \$ _____

b. There have been no claims presented against the estate, but the estate is indebted to: _____

2. The sale sought in the foregoing Application is necessary and advisable in order to make up the deficit in the estate’s monthly income to pay for _____ and other expenses. Further, the property does not produce sufficient revenue to make a fair return upon the value of the real estate and is a further drain on the assets of the estate.

 [Name], Affiant

THE STATE OF TEXAS §
 §
 COUNTY OF [Name] §

SWORN TO AND SUBSCRIBED BEFORE ME by [Name] on this [Date].

 Notary Public, State of Texas

APPENDIX F.(2)

[Insert Style of Case]

ORDER AUTHORIZING SALE OF PERSONAL PROPERTY

On this day, came on to be heard the Application for Sale of Personal Property filed by [Name], Administrator of the Estate of [Decedent], Deceased and after hearing the evidence in support of this Application, the Court finds as follows:

1. The property to be sold is [Description]. The property should be sold to prevent further deterioration of the estate and prevent recurring expenses in the upkeep of the property.
2. The general bond of Administrator is insufficient/sufficient as required by law.
3. The Application should be granted and the property should be sold.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the property described in this Order shall be sold at private sale for cash with a reasonable commission allowed for sale of the [Description].

IT IS FURTHER ORDERED that no additional bond shall be required of Administrator/rix at this time, and that after the sale has been made, a Report of Sale shall be returned in the manner required by law. [...and the bond shall be increased by the amount of the net proceeds of the sale before a decree confirming the sale is entered.]

Signed: [Date]

Judge Presiding

APPENDIX F.(3)

[Insert Style of Case]

REPORT OF SALE OF PERSONAL PROPERTY

[Name], Administrator of the Estate of [Decedent], Deceased, reports the following:

1. The Order Authorizing Sale of Personal Property in this Estate is dated [Date].
2. The description of the property to be sold is as follows:

[Description]
3. A contract to sell the property was executed at a private sale on [Date]. The name of the purchaser is [Name]. The total sales price of the property is [Amount] less estimated costs and expenses of sale in the sum of [Amount] leaving a net sales price of approximately [Amount]. A copy of such contract is attached hereto as Exhibit "A".
4. The terms of the sale are for [Term].
5. The purchaser is ready to comply with the Order Authorizing Sale.

Respectfully submitted,

 [Name], Administrator

THE STATE OF TEXAS §
 §
 COUNTY OF [Name] §

SWORN TO AND SUBSCRIBED BEFORE ME by [Name] on this [Date].

 Notary Public, State of Texas

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX F. (4)

[Insert Style of Case]

DECREE CONFIRMING SALE OF PERSONAL PROPERTY

On this day the Court heard and considered the Report of Sale of Personal Property filed herein on [Date], and the Court finds that five (5) days have expired since the filing of the Report; that the General Bond is sufficient to protect Decedent's estate and is in compliance with the Court's previous Order Authorizing Sale and with the law; and that the personal property has been sold for a fair price and such sale was properly made and in conformity with the law. The property is described as follows:

[Description]

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the sale described in the Report is hereby approved and confirmed.

Signed: [Date]

Judge Presiding

APPENDIX G.(1)

[Insert Style of Case]

**APPLICATION TO LEASE PROPERTY FOR MINERAL EXPLORATION AND
DEVELOPMENT
AT PRIVATE SALE PURSUANT TO TEX. EST. CODE § 358.052**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW [Name], Administrator of the Estate of [Decedent], Deceased (“Applicant”), and files this Application To Lease Property for Mineral Exploration and Development at Private Sale Pursuant To Tex. Est. Code § 358.052 to obtain authority to lease property of the Estate of [Decedent] (“Estate”) for mineral exploration and development, and shows the Court the following:

1. A description of the property to be leased (the “Property”) is set forth in the proposed lease (the “Lease”), a copy of which is attached to this Application as Exhibit ”A”, reference to which is hereby made for all purposes.
2. The interest in the property thought to be owned by the Estate is the full mineral ownership of the Property, and authority is hereby requested to include all interest owned by the Estate.
3. The Property should be leased because Applicant believes that the Property has prospective value for oil, gas, and mineral exploration and development purposes, that the Lease can be made to obtain income for the Estate, and that the Lease affords a method for development of potential value of the mineral interest. Specifically, Applicant has reason to believe that the lands covered by the Lease may be productive of natural gas from the Barnett Shale formation.
4. It would be more advantageous to the Estate for this Application to be heard and for the lease to be made privately without complying with the otherwise mandatory requirements of Chapter 358, Subchapter B of the Tex. Est. Code for entering into a lease, because the leasing transaction will be expedited and the funds will be made available sooner. Applicant would show in connection therewith that the Estate if currently indebted to various creditors and administrative claimants, including taxing authorities, in the amount of at least \$100,000.00, but that the Estate has cash on hand of approximately \$90,000.00. The proposed lease will generate \$20,000.00 in immediate bonus revenue to the Estate for the lands described in the lease. The Property is located in an urban area of NW Fort Worth, and, therefore, opportunities to lease the Property for mineral exploration and development are limited. On information and belief, [Company] is in the process of forming a pooled drilling unit to be comprised of lands in the vicinity of the Property. Applicant believes the proposed lease terms are at or above the current market for the relevant area.
5. No order of the Court setting the time and place for hearing of this application or issuance, service, and return of notice or of citation should be required.

6. Applicant would show the Court that pursuant to Sections 358.058 and 358.102 of the Tex. Est. Code, it is appropriate for Applicant to post an increased or additional bond equal to the amount of each bonus installment to be received.

WHEREFORE, PREMISED CONSIDERED, Applicant requests that the Court authorize the leasing of the Property for mineral exploration and development privately and without complying with the otherwise mandatory requirements of Chapter 358, Subchapter B of the Tex. Est. Code; that the Court authorize Applicant to execute the attached Lease and to receive the bonus to be paid thereunder; that Applicant be ordered to file an increased bond; and to make such further orders as the Court considers proper.

Dated this [Date]

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX G.(2)

[Insert Style of Case]

**ORDER GRANTING APPLICATION TO LEASE PROPERTY
FOR MINERAL EXPLORATION AND DEVELOPMENT AT PRIVATE SALE**

On this day came on to be heard the Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Tex. Est. Code § 358.101 (the “Application”) filed by [Name], Administrator of the Estate of [Decedent], Deceased (“Applicant”).

The Court, having heard evidence concerning the Application and having inquired into the manner in which the proposed lease will be made, finds that it has jurisdiction and venue of the subject matter of this proceeding and jurisdiction of all parties interested in this estate and all other persons over whom jurisdiction is required under the law; that the Application is in due form; that a hearing on the Application was held within more than five (5) days, but prior to the expiration of ten (10) days after the date of filing of the Application and without an order setting the time and place of hearing, the Court having found that sufficient facts are set out in the Application to show that it would be more advantageous to the estate that the lease be made privately and without compliance with the requirements of Chapter 358, Subchapter B of the Tex. Est. Code; that proof of the necessity or advisability of leasing was sufficient; that the lease has been or will be made for a fair and sufficient consideration and on fair terms, and has been or will be properly made in conformity with law; that it is in the best interest of the estate for a lease to be made privately and without complying with the otherwise mandatory requirements of Chapter 358, Subchapter B of the Tex. Est. Code; that the name of the lessee is [Company]; that the actual cash consideration to be paid by the lessee in the form of a bonus is \$20,000.00; that the general bond on file is not sufficient due to the anticipated receipt of the bonus payment provided by the lease; that a complete exhibit copy of the proposed lease is attached to this Order as Exhibit “A,” reference to which is hereby made for all purposes; that the Lease shows the name of the lessee, the date of the lease, an adequate description of the property being leased, and all other terms and provisions thereof; and that the lease should be made.

It is, therefore, ORDERED that Applicant shall be and is fully authorized in accordance with this order to lease the subject property in accordance with the terms of the lease and to execute and deliver the lease within thirty (30) days after the date of this order without the necessity of advertising, notice, or citation or other action by this Court.

It is further ORDERED that Applicant shall file with the Clerk of this Court an increased or additional bond equal to the amount of bonus to be paid by the lessee, being \$20,000.00, in the form and manner required by law.

Dated this [Date]

Judge Presiding

APPENDIX H.(1)

[Insert Style of Case]

APPLICATION FOR LEASE OF REAL PROPERTY

[Name], Administrator of the Estate of [Decedent] (“Administrator”) files this Application for Lease of Real Property pursuant to Tex. Est. Code § 357.002, and represents as follows:

1. The Inventory, Appraisalment and List of Claims of this Estate has been filed herein and was approved on [Date].
2. The legal description of the real property sought to be leased is [Description] located in Fort Worth, Tarrant County, Texas; commonly known as [Address]. [Name] (“Deceased”) is the sole owner of the property.
3. Administrator proposes to lease the property for the net amount of [Amount] per month with all maintenance, property taxes, and insurance being the responsibility of the tenant. The term of the lease will be for [Term] years effective as of [Date] and ending on [Date].
4. It will be in the best interest of Decedent’s Estate for the property to be leased privately for cash.
5. Administrator’s bond is sufficient.

WHEREFORE, Administrator requests that the court find that the lease of the property described herein is a necessary source of income for the Estate; that the Court enter an Order authorizing Administrator to lease the property privately for cash on the terms set forth above; and that Administrator have such other and further relief to which Administrator is justly entitled.

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX H.(2)

[Insert Style of Case]

ORDER AUTHORIZING LEASE OF REAL PROPERTY

On this day, the Application for Lease of Real Property filed by [Name], Administrator of the Estate of [Decedent], Deceased, was heard and considered by the Court, and, after hearing the evidence in support of the Application, the Court finds as follows:

1. The legal description of the real property to be leased is [Description] located in Tarrant County, Texas known as [Description], an addition to the City of Fort Worth in Tarrant County, Texas; commonly known as [Address];
2. That [Name] is the sole owner of the property described herein;
3. That the lease of the property should be done privately for cash and for the term set forth in the Application for Lease of Real Property;
4. The general bond of Administrator is sufficient; and
5. The Application should be granted, and the property should be leased based on the terms set out in the Application for Lease of Real Property.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED the property described herein should be leased based on the terms set out in the Application for Lease of Real Property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the property described in this Order shall be leased privately for cash.

IT IS FURTHER ORDERED that no additional bond shall be required of Administrator at this time, and that after the lease has been made, a report of renting shall be returned as required by law.

Signed: [Date]

Judge Presiding

APPENDIX I.(1)

[Insert Style of Case]

APPLICATION FOR PARTITION AND SALE OF REAL PROPERTY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW [Administrator], Administrator of the Estate of [Decedent] and files this her Application for Partition and Sale of Real Property, and in support thereof would respectfully show the Court as follows:

JURISDICTION AND VENUE

This Court has jurisdiction over this Application pursuant to § 32.005 of the Tex. Est. Code, as a matter relating to the Decedent's estate. Venue is appropriate with this Court, as the Real Property (as hereinafter defined) is located in Tarrant County, Texas, and the Decedent was a resident of Tarrant County, Texas at the time of his death.

FACTS AND IDENTITY OF PARTIES

1. [Decedent] (the "Decedent") died on [Date]. The Decedent's will dated [Date] (the "Will") was admitted to probate in this Cause, and [Administrator] was appointed as Administrator of Decedent's estate on [Date].
2. The Inventory, Appraisal and List of Claims Due the Estate filed by the Administrator was approved by this Court on [Date].
3. At the time of his death, Decedent owned [Description] (the "Real Property").
4. Pursuant to the terms of his Will, Decedent devised the Real Property in equal shares to his two (2) children: [Child 1] and [Child 2].
5. [Child 1] and [Child 2] may be served with citation at [Address].

APPLICATION FOR PARTITION AND SALE

1. Pursuant to § 405.008 of the Tex. Est. Code, Administrator seeks a partition and sale of the Real Property, as such is incapable of division in kind.
2. Specifically, [Child 1] and [Child 2] reside in certain older manufactured homes located on the Real Property. Over a period of several decades, [Child 1] and [Child 2] have disposed of their trash, old cars, equipment, and junk at various locations located on the Real Property, thereby diminishing its value. [Child 1] and [Child 2] refuse to clean up the debris they have allowed to accumulate on the Real Property, refuse to consent to any sale of the Real Property, and refuse to vacate the Real Property.
3. Due to the refusal of [Child 1] and [Child 2] to remove their unsightly debris from various locations on the Real Property, as well as their refusal to consent to the sale of the Real Property or to vacate the Real Property so that it may be sold intact, the Real Property is incapable of being partitioned in kind.

4. Further, it would be in the best interest of the Estate for the Real Property to be partitioned and sold for cash, as it is far more valuable intact than it would be if partitioned in kind. The presence of the older manufactured homes, as well as the junk, debris, and equipment disposed of on the Real Property, has devalued the Real Property by [Amount], at a minimum. The damage caused by [Child 1] and [Child 2] continues to cause the Real Property to depreciate.
5. Pursuant to § 360.202 of the Tex. Est. Code, Administrator requests this Court allow her to conduct a sale of the Real Property, the proceeds of which shall be distributed by the Court to those entitled thereto.
6. Administrator further requests that, due to the deterioration caused to the Real Property by [Child 1] and [Child 2], all expenses associated with the partition and sale of the Real Property be allocated to [Child 1] and [Child 2].

WHEREFORE, PREMISES CONSIDERED, Administrator requests that upon notice and hearing, this Court enter a decree as follows:

1. Determining that the Real Property is not capable of a fair and equal partition and distribution;
2. Ordering a sale of the Real Property by the Administrator in accordance with the applicable provisions of the Tex. Est. Code;
3. Ordering that all expenses of the partition of the Real Property shall be allocated to [Child 1] and [Child 2]'s shares of the Decedent's estate; and
4. Granting Applicant all such other and further relief to which she may show herself to be justly entitled.

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX I.(2)

[Insert Style of Case]

ORDER ON APPLICATION FOR PARTITION AND SALE OF REAL PROPERTY

On [Date], came on to be heard before the Court the Application for Partition and Sale of Real Property filed herein by [Administrator], Administrator of the Estate of [Decedent] (“Administrator”). A trial before the Court was held and after hearing the testimony of the witnesses and considering their credibility, and considering the other evidence presented before it, the Court finds that the relief requested by the Administrator in her Application be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the real property owned by the Decedent, being particularly described by metes and bounds in Exhibit “A” hereto (the “Real Property”) is owned by the Estate of [Decedent], and that further, the Estate Real Property is incapable of being partitioned in kind.

IF IS FURTHER ORDERED, ADJUDGED AND DECREED that [Administrator], Administrator of the Estate of [Decedent], is authorized to sell the Real Property at a private sale for cash, and further, that the Administrator is authorized to pay a six (6%) percent commission for such sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that no additional bond shall be required of the Administrator at this time [OR, bond shall be increased to [Amount] within [Number] days of the entry of a decree of sale].in connection with the sale of the Real Property and that further, following such sale, Administrator shall file a Report of Sale with this Court as is required by law, and that further, following the entry of a Decree of Sale by the Court, the Administrator shall allocate the proceeds of the sale, following payment of all costs associated therein, as follows:

[Description]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party to this Application for Partition and Sale of Real Property is to pay his or her own attorneys’ fees and costs of court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all relief not granted expressly herein is hereby denied.

Signed: [Date]

Judge Presiding

APPENDIX J.(1)

[Insert Style of Case]

ACCOUNT FOR FINAL SETTLEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES [Name], Administrator / Guardian herein, and respectfully presents this verified exhibit pursuant to the provisions Texas Estates Code §362.003/§1204.101.

1. **SERVICE OF ADMINISTRATOR.** Your Administrator was appointed by Order signed [Date] and qualified [Date]. Your Administrator has administered this estate in accordance with the provisions of the Texas Probate Code since that time.

2. **REASON FOR CLOSING.** This Estate should be settled and closed pursuant to Texas Estates Code §362.001 / §1204.001 because (Estates) all debts known to exist against the Estate have been paid (or) all debts known to exist against the Estate have been paid so far as the assets in the hands of the Administrator will permit and there is no further need for administration (or) (Guardianships) the ward has died/ the minor ward has become an adult by attaining 18 years of age/ the ward has been restored to full legal capacity/ the ward’s estate is exhausted/ all estate assets have been placed in a guardianship management trust/ all estate assets have been transferred to a pooled trust subaccount/the court determines for the reason that _____, that a guardianship for the ward is no longer necessary.

3. **CITATION.** Pursuant to Texas Estates Code § 362.005/ 1204.105:
 No personal service of citation is necessary. Waiver(s) of notice has/have been filed.
 Citation may be served upon _____ at _____.

4. **PERIOD OF ACCOUNT.** This accounting covers the period from [Date], the date of your Administrator's / Guardian's appointment/ the last Annual Account to [Date], the date when the necessity for administration ceased/ the guardianship was required to be settled and closed.

5. **OPENING FIGURES.** The property of the Estate, as shown on
 the Inventory, Appraisalment & List of Claims (or)
 the last Annual Accounting
 approved on _____, was as follows:

<u>REAL PROPERTY</u>	
_____	\$ _____.
_____	\$ _____.

TOTAL REAL PROPERTY	\$ _____.
<u>PERSONAL PROPERTY</u> Confirmations of securities are attached.	
_____	\$ _____.
_____	\$ _____.

TOTAL PERSONAL PROPERTY	\$ _____.

CASH ON HAND Listed by account number and bank location.

_____ \$ _____.

_____ \$ _____.

TOTAL CASH ON HAND \$ _____.

OPENING FIGURES - TOTAL PROPERTY AND CASH ON HAND \$ _____.

6. PROPERTY NOT PREVIOUSLY REPORTED. The following property has come into the hands of your Administrator/Guardian which has not been previously reported to the Court:

A. By Order signed _____ \$ _____.

_____ B. By Order signed _____ \$ _____.

_____ C. _____ \$ _____.

_____ TOTAL PROPERTY NOT PREVIOUSLY REPORTED \$ _____.

7. CHANGES. The following changes have occurred in the condition of the Estate which have not been previously listed or inventoried:

None, (or)

_____ \$ _____.

_____ \$ _____.

_____ TOTAL CHANGES IN PROPERTY \$ _____.

8. RECEIPTS. The receipts of the Estate are as shown in the attached Exhibit "A", and are summarized as follows:

Interest on Estate Accounts \$ _____.

Refunds \$ _____.

Rental Income \$ _____.

Dividends \$ _____.

Proceeds from Sale of Estate Assets \$ _____.

_____ \$ _____.

_____ TOTAL RECEIPTS \$ _____.

9. DISBURSEMENTS. The disbursements of the Estate are as shown in the attached Exhibit "B", and are summarized as follows:

Attorney's Fees \$ _____.

Bond Premium \$ _____.

Bank Charges \$ _____.

Taxes \$ _____.

Expenditures authorized by Court Order \$ _____.

_____ \$ _____.

_____ TOTAL DISBURSEMENTS \$ _____.

10. PROPERTY AND CASH ON HAND. The property currently being administered and cash

remaining in the hands of your Administrator/Guardian are as follows:

<u>REAL PROPERTY</u>		
_____	\$ _____.	_____
_____	\$ _____.	_____
TOTAL REAL PROPERTY		\$ _____.
 <u>PERSONAL PROPERTY</u>		
_____	\$ _____.	_____
_____	\$ _____.	_____
TOTAL PERSONAL PROPERTY		\$ _____.
 <u>CASH ON HAND</u>		
_____	\$ _____.	_____
_____	\$ _____.	_____
TOTAL CASH ON HAND		\$ _____.
TOTAL PROPERTY AND CASH ON HAND		\$ _____.

11. SAFEKEEPING. The following assets belonging to the Estate are being held subject to safekeeping agreements: None, (or)

<input type="checkbox"/>	_____	\$ _____.
	_____	\$ _____.
TOTAL ASSETS IN SAFEKEEPING		\$ _____.

12. UNPAID DEBTS The following debts and expenses of the Estate have not been paid and are presently due and owed by the Estate:

<input type="checkbox"/>	None, (or)	
<input type="checkbox"/>	_____	\$ _____.
	_____	\$ _____.
TOTAL UNPAID DEBTS		\$ _____.

13. CLAIMS. The claims which have been presented against the estate are as follows:

<input type="checkbox"/>	None, (or)					
Claimant's Name & Address	Nature of Claim	Amount Allowed and Approved	Amount Rejected	Amount Paid	Amount Allowed But Not Paid	
_____	_____	_____	_____	_____	_____	_____
TOTAL CLAIMS						\$ _____.

14. OTHER FACTS NECESSARY FOR A FULL UNDERSTANDING OF THE CONDITION OF

THE ESTATE, INCLUDING, BUT NOT LIMITED TO THE PAYMENT OF INSURANCE AND TAXES, IF ANY, ON ASSETS OF THE ESTATE:

15. REQUESTED DISPOSITION OF REMAINING PROPERTY OF ESTATE:

16. RECONCILIATION. The following is a summary and reconciliation of the foregoing paragraphs of this account:

	CASH	TOTAL
ESTATE		
16.5. OPENING FIGURES	\$ _____	\$ _____
16.6. PROPERTY NOT PREVIOUSLY REPORTED	_____	_____
16.7. CHANGES IN PROPERTY	_____	_____
16.8. RECEIPTS	_____	_____
16.9. DISBURSEMENTS	(_____)	(_____)
TOTAL 16.5 THROUGH 16.9	\$ _____	\$ _____
16.10. PROPERTY AND CASH ON HAND	_____	_____
16.11. ASSETS IN SAFEKEEPING	_____	_____
TOTAL 16.10 THROUGH 16.11	\$ _____	\$ _____
16.12. UNPAID DEBTS		_____
16.13. CLAIMS		_____
TOTAL NET VALUE OF ESTATE		\$ _____

WHEREFORE, PREMISES CONSIDERED, your Administrator/Guardian prays that the Court review and approve said Account, and upon approval hereof, the Court authorize

Respectfully submitted,

 [Name], Administrator/Guardian

THE STATE OF TEXAS }
 COUNTY OF [COUNTY] }

Administrator, [Name], being first duly sworn, upon his/her oath, deposes and says that:

I am the Administrator/Guardian in the above entitled and numbered cause. I have read and examined the foregoing Account for Final Settlement which is to be filed in this cause and:

- A. *The account contains a true, correct and complete statement of the matters to which the account relates;*
- B. *the Administrator/Guardian has paid the bond premium for the next accounting period;*

C. the Administrator/Guardian has filed all tax returns of the Estate due during the accounting period; and

D. no taxes were owed by the Estate during the accounting period. (or)

the Administrator/Guardian has paid all taxes the Estate owed during the accounting period,

1. the amount of the taxes was \$_____;

2. the date the Administrator/Guardian paid the taxes was _____;

3. the governmental entity to which the taxes were paid was

_____. (or)

the Administrator/Guardian has **NOT** paid all taxes the Estate owed during the accounting period,

(or)

the Administrator/Guardian has **NOT** filed all tax returns of the Estate due during the accounting period for the reason that

[Name] Administrator/Guardian

SWORN TO AND SUBSCRIBED on _____.

Notary Public

LAW FIRM

[Signature Block]

APPENDIX J.(2)

[Insert Style of Case]

ORDER APPROVING ACCOUNT FOR FINAL SETTLEMENT

On this day the Account for Final Settlement of this Estate was heard and considered by the Court, and after examining the Account and hearing the evidence in support of same, the Court finds as follows:

1. That citation has been duly served upon all persons interested in this Estate;
2. That the Court has jurisdiction of this proceeding and of the subject matter as required by law;
3. The Court has now been fully advised on all items of the account and possession of cash and other assets kept in safekeeping as well as those on deposit having been duly proved as required by law;
4. The Court is satisfied that the facts stated in the account are true, correct and complete; and
5. That the Account for Final Settlement has been audited and settled by the Court, complies with the law in every respect, and should be approved as filed;
6. That all claims, debts and expenses have been paid or are approved and should be paid; that this Estate has been fully administered;
7. That all of the property belonging to this Estate and still remaining on hand after payment of all debts and expenses shall be delivered to _____
8. _____

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Account for Final Settlement is hereby APPROVED, and that all of the property belonging to this Estate and remaining in the hands of the Administrator/ Guardian shall be delivered to:

_____ IT IS FURTHER ORDERED that upon the delivery of the property remaining, and the filing of proper receipts therefor, the Administrator/Guardian of this Estate shall apply to this Court for an Order of Discharge and for a declaration that this Estate is closed.

(or)

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Account for Final Settlement is hereby APPROVED, that there is no further need for an administration hereupon; the Administrator/Guardian of this Estate is hereby discharged from this trust; the Surety on the Administrator's/Guardian's Bond is hereby discharged from further liability under such Bond; and this Estate is hereby declared to be CLOSED.

SIGNED this _____

JUDGE PRESIDING

LAW FIRM

[Signature Block]

APPENDIX K.(1)

[Insert Style of Case]

APPLICATION TO CLOSE ESTATE AND TO DISCHARGE PERSONAL REPRESENTATIVE

[Name], Administrator of this estate, ("Applicant"), furnishes the following information to the Court:

1. This Court has previously signed its order approving the Account for Final Settlement of this estate and ordering Applicant to deliver the property remaining on hand to the persons entitled to receive that property.

2. Applicant has fully complied with that order, and there is no property belonging to this estate remaining in the hands of Applicant that can be applied for the payment of claims or for distribution to heirs.

Applicant requests this Court to sign an order discharging Applicant from this trust, discharging the surety on Applicant's bond from further liability, and declaring this estate closed.

Respectfully submitted,

LAW FIRM

[Signature Block]

APPENDIX K.(2)

[Insert Style of Case]

ORDER CLOSING ESTATE AND DISCHARGING PERSONAL REPRESENTATIVE

On this day the Court considered the Application to Close Estate and Discharge Personal Representative filed by [Name], Administrator of this estate (“Administrator”). After reviewing the evidence in support of the application, the Court finds that this estate has been fully administered; that the Account for Final Settlement has previously been approved; [*include if applicable*: that with respect to the portion of the estate distributable to an unknown or missing person, Administrator has complied with the order of the Court to pay funds to the Comptroller of Public Accounts of the State of Texas;] that Administrator has distributed all property of the estate to the heirs and others entitled to receive it; that no property of the estate remains on hand for the payment of claims or for distribution; and that this estate should be closed.

It is ORDERED that Administrator of this estate, is hereby discharged from this trust; that [Name], surety on the bond of the Administrator, is hereby discharged from further liability under the bond; and that this estate is hereby declared to be closed.

SIGNED on _____.

Judge Presiding

