



Oregon

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State Land Board

M E M O R A N D U M

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April 8, 2008

To: Governor Theodore R. Kulongoski
Secretary of State Bill Bradbury
State Treasurer Randall Edwards

From: Louise Solliday
Director

Subject: Estates Program Annual Report

The Department is pleased to report that in calendar year 2007, the Estates Program continued to experience the rapid growth it has seen over the last few years. The following report outlines the history of the program, recent activities contributing to the growth and goals for the program's future.

HISTORY

Under Oregon's Constitution, the Department is responsible for managing the estates of those residents who die both without a will and without any known heirs. The Department acts as personal representative and seeks immediately to reunite the estate with legal heirs whenever possible. In this capacity, there is a strong fiduciary responsibility to the beneficiaries and to the Common School Fund if an estate escheats. Estates managed by the Department range from those of decedents who are destitute to those with multi-million dollar assets.

By statute, anyone having knowledge of the death of a resident individual who has died without leaving a will and with no known heir is required to notify the Department within forty-eight hours of the death. In the past, this statute was widely overlooked and notice was not provided. Legislation during the 2003 Legislative Session brought these statutes to the forefront. Continuing education on statutory changes furthered this knowledge among major segments of the professional community such as attorneys, funeral homes and medical examiners. As a result, the Department has seen a substantial increase in the number of estates reported.



Within five days after notification, Department staff must respond to the estate to determine the existence and value of assets and to safeguard them against loss. Dual custody is mandatory whenever Department staff is in the presence of estate assets in order to ensure the integrity of the assets at all times. A physical search is performed of the residence and other personal effects in an effort to locate an heir or a will. If an heir or a will is located, the estate is turned over to those named. If neither is found, the Department administers the estate through probate. While at the residence, Department staff collects personal photographs and items of possible sentimental value for heirs, should they be located at a later date. Personal identification, financial records and investment documents are secured and protected in the custody of the Department. The Department makes arrangements for the respectful handling of the decedent's remains.

The process of probate consists of identifying and liquidating all assets, satisfying creditors and completing the legal process. Property of the estate, both real estate and personal, may be liquidated by public auction for the purpose of generating funds for the payment of debts and administrative expenses. Administrative costs and expenses incurred by the Department in the course of administering the estate are reimbursed to the Department out of the funds of the estate as a priority item. The remaining funds are escheated to the Common School Fund where they are held in trust for a period of ten years. In the event that the Department is unable to locate any heirs or no heirs come forward within that claim period, the proceeds permanently escheat to the Common School Fund.

In addition, the Department holds in trust and protects the interests of missing heirs in ongoing estates, which are not being administered by the Department, but are otherwise under probate court administration. As with estates that are under the administration of the Department, the Department seeks to locate the missing heirs in order to reunite them with their inheritance. In the event that the missing heirs are not located or do not come forward within the ten year claim period, the proceeds likewise permanently escheat to the Common School Fund.

Millions of dollars pass through the Estates program each year and large amounts are reunited with rightful heirs found by Department staff. Without the efforts of the Department, the assets of many estates would fall into the hands of those who have no legal right to claim them.

In 2006, the Emergency Board granted two additional staff members to assist in responding to the increasing number of estates. A Program Analyst 1 and a Paralegal were hired in the summer of 2006, and these positions were made permanent in 2007. These positions have proven essential to responding quickly and effectively.

GROWTH OF THE PROGRAM

In calendar year 2007, the Estates program opened a total of 158 new cases, representing an increase of 27.4% over the number of cases opened in calendar year 2006, which had been a banner year in the recent history of the program. Average cases per week were 3.04 for year 2007, as compared to 2.38 for year 2006. Missing heir cases continue to number about 90 per calendar year and are in addition to estates directly administered by the Department. We expect that this rate of new estates will continue to increase rapidly as a result of heightened public and official awareness of the program directly related to ongoing outreach and public relations efforts conducted by the Department.

The value of assets of cases opened in calendar year 2007 totaled \$1.98 million, a significant reduction in asset value as compared to year 2006. 2006 had seen an unprecedented coincidence of a million dollar-plus estate and several near-million dollar estates, which are now in the final stages of administration.

The value of funds escheated to the Common School Fund in calendar year 2007, from all cases was \$859,036.34. The estimated value of assets of estates administered by the Department that are currently in the process of escheat or being held pending proof by heirs totals \$5.96 million.

In calendar year 2007, the Department recouped, as administrative costs from cases opened that year, an amount in excess of \$74,000 representing staff time expended on those cases and per diem paid for overnight travel.

The Department was successful in locating heirs in 29 cases opened in calendar year 2007, as compared to 32 heirs located in cases opened in calendar year 2006.

Over the past few years, the Department has raised the awareness of landlords, funeral homes, medical examiners, attorneys, judges and others concerning the Department's role in these types of estate cases. This outreach, as well as recent legislation focusing on the program, has resulted in the dramatic increase in the number of cases managed by the Department. Specifically, the demonstrated ability of the Department to assist these agencies and entities in locating heirs and handling assets of these estates has resulted in a dramatic increase in the reporting of cases in cities and outlying areas along and near the southern I-5 corridor, which has become a popular retirement destination.

Additional outreach has been done and more is planned in the Central, South-Central and Eastern regions of Oregon where compliance with estate laws has been traditionally low. In addition, the population is aging and becoming more mobile. Fewer families live in the same town or even in the same state, but are scattered around the nation and the world. As a result of these factors, we anticipate the program will experience continued significant growth within the next biennia.

GOALS AND OBJECTIVES

Internally:

- Program reorganization and streamlining: The addition of new staff has resulted in the streamlining of operations. The estates paralegal is able to concentrate on and continue to process necessary paperwork at the same time other staff are involved in physical estate visits. This has resulted in a more rapid response time and improved record management.
- Training: The estates team participated in the annual probate practice and procedure seminar organized by the Oregon Law Institute of Lewis & Clark Law School on March 16, 2007, in Portland, Oregon. The team is also scheduled to participate in this year's seminar on March 14, 2008. This training has proved very effective in improving the team's skills in investigation, estate handling and probate law.
- Assessment of administrative charges provided by statute: Statute provides a hierarchy for payment of administrative costs related to estate management. In the past, the Department has not captured the large portion of these costs as a reimbursable expense. Since our last report, we have implemented a system to recapture our costs. We are seeking to further refine this process to make the program more self-supporting.
- Definition of acceptable proof of heirship for international claims: Since our last report, the Department has worked with legal counsel to establish a standard that can be applied across all international claims. The first such case using this methodology is currently in process. We will be including these criteria in future estate program rulemaking.

Externally:

- Distribution of Informational Brochures: Brochures were developed in December 2006, for distribution to the professional communities informing them of the requirements for reporting deaths to the Department when no will or heir is found. The brochures have been, and continue to be, distributed to medical examiners, sheriff departments, police offices, funeral homes, landlords, courts, attorneys, rest homes, hospitals and any other office or entity that may have knowledge from time to time of a person's passing. The estates team carries a supply of the brochures on all estate visits and provides them to persons and offices involved in any estate under investigation. Additionally, the estates team makes a specific effort to distribute the brochures as a valuable outreach tool to the above mentioned entities whenever they travel to areas which have not been historically diligent in reporting cases to the Department. Brochures have also been

distributed through organizations such as the Oregon State Sheriff's Association and have been readily welcomed.

- Educational Seminars: The Department continues its efforts to plan and conduct educational seminars throughout the state to bring better reporting compliance statewide. These seminars will be geared towards professionals who are generally first on the scene in death situations. Additionally, members of the estates team have made themselves available to civic groups and other organizations of general interest to give informational talks about the estates program and reporting requirements.