

STATE OF NEW YORK
SURROGATE'S COURT : SUFFOLK COUNTY
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In the matter of the account of :
proceedings of :

GEORGE SASSOWER, :

as Preliminary Executor in the :
Estate of :

EUGENE PAUL KELLY, :

deceased.:

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Riverhead, N. Y.,
June 22nd, 1977.

B E F O R E :

HON. ERNEST L. SIGNORELLI,
Surrogate.

APPEARANCES:

VINCENT G. BERGER, ESQ.,
Attorney for Public Administrator,
6351 Jericho Turnpike,
Commack, N. Y. 11725.

VIRGINIA D. MATHIAS
Surrogate's Court Reporter

THE CLERK: In the matter of the accounting in the estate of Eugene Paul Kelly.

MR. BERGER: Your Honor, on behalf of the Public Administrator, I have an application, and some information to bring to the attention of the court.

THE COURT: First, is Mr. George Sassower in court?

THE CLERK: (calling out) Mr. George Sassower.

(No response.)

THE CLERK: There is no response, Your Honor.

THE COURT: He has not responded?

THE CLERK: No, Your Honor.

THE COURT: Have you seen him in court?

THE CLERK: No, Your Honor.

THE COURT: Mr. Berger, have you seen him?

MR. BERGER: No, Your Honor, I have not. I would like to report to the court

in that regard. Yesterday afternoon, my secretary received a telephone call from Mr. Sassower - late in the afternoon, late in the day - I believe between 4:30 and 5:00, and advised my secretary - I wasn't in the office at the time - that he would not be able to appear in court today.

She thinks he said something about another court engagement, but he did not specify. He merely said he would not be in court today and that he would send a letter.

I talked with my secretary this morning. He has not called my office or sent me any letter or affidavit of engagement.

I also call your attention to a letter I wrote to Mr. Sassower requesting that he furnish me with the books, records and property of the estate. The letter was written on June 17th and mailed to him on that date, and a copy of that letter was mailed to this court, and I trust that it is in the file of the court.

Your Honor, I would like to report back to you as to what occurred last week. We appeared before you, if you will recall - Mr. Abuza, Mr. Wruck, myself and Mr. Sassower - and there came a time when it looked like Mr. Sassower was willing to turn over certain papers and records to the court, and I, representing the Public Administrator, consented to an adjournment, and I think I have made a mistake.

After leaving the court room, we went to the Public Administrator's office and made the photostating facilities of the Public Administrator available to Mr. Sassower. In fact, photocopies were made over a period of several hours. Mr. Sassower refused to stay in the office within a half hour after we left this court room, and refused to cooperate with me in identifying papers.

He took with him what I think may have been bank statements and bank accounts. He left in the office, certain papers which

were really copies of tax returns and so forth, miscellaneous correspondence, an appraisal, and what purports to be a copy of an estate tax proceeding for this court, right up to the extent of an order fixing tax, which is undated but had his figures on it, and I ask that it be marked as Exhibit I for Identification.

THE COURT: There were certain other documents brought in before.

THE CLERK: This is Exhibit 3. Exhibit 3 has been marked for identification as Court Hearing Exhibit 3.

MR. BERGER: Your Honor, I checked with the tax clerk of the court and she made a search over a period of about fifteen minutes, and reported to me that no tax proceeding whatever was filed in this court. She has no record whatsoever of this estate in the Tax Department.

Your Honor, under the circumstances, I would now like to, just for the record, call to the witness stand, the Deputy Pub-

lic Administrator here in the courtroom, so that she can of her own knowledge, tell the court that we never received anything since Mr. Sassower was last in court.

I call Ms. Audrey C. Amberman to the stand.

AUDREY C. AMBERMAN was called as a witness on behalf of the Public Administrator, and having been first duly sworn, testified as follows:

(Witness stated that her address was Box #486, Aquebogue, New York.)

DIRECT EXAMINATION BY MR. BERGER:

Q You are the Deputy Public Administrator of Suffolk County?

A Right.

Q How long have you been with the Public Administrator's Office?

A For ten years.

Q You are also an assistant to Mr. Mastroianni, the Public Administrator?

A Yes.

Q What do your duties consist of?

A I assist the Public Administrator in whatever way he asks; I do his secretarial work; I can sign legal papers in his absence.

Q Does all the mail - documents, records, assets, copies of bank accounts, bank statements, et cetera, come through your hands?

A Yes.

Q In the course of your duties?

A Yes; they do.

Q Are you familiar with the estate of Eugene Paul Kelly?

A Yes, I am.

Q Are you familiar with the fact that the Public Administrator was appointed the temporary administrator in this estate?

A Yes.

Q Now, Ms. Amberman, do you recall that Mr. Sassower and I were in your office last week, making photocopies of certain papers and records?

A Yes.

Q Since that time, have you received any bank books, bank statements, deeds or any property whatsoever from Mr. Sassower or any other source, with regard to this estate?

A No; nothing has been received.

Q Does that also include papers, ledgers, documents, letters, et cetera?

A Yes; nothing has been received since last Wednesday.

Q Have you received any telephone call from anyone - Mr. Sassower or anyone on his behalf, or anyone on behalf of the estate?

A No; I have not.

Q Do you have any information whatever to report to the court, based on your own knowledge?

A No.

Q You have been in your office every day since I was there?

A Yes.

MR. BERGER: Thank you. I have no further questions.

BY THE COURT:

Q Have you at any time received any assets whatsoever pertaining to this estate, from Mr. Sassower or someone on his behalf?

A No, I have not, Judge; nothing.

Q What was the date he appeared at your office?

A The 15th of June - last Wednesday.

Q Did he turn over to you any assets on that date?

A No assets at all.

Q Since that time, he has turned over ny assets at all?

A That's correct.

THE COURT: Thank you very much.

(Witness excused.)

MR. BERGER: Your Honor, I have no other witnesses to call, and I think that I have stated already, at least the facts and background on this point.

The Public Administrator, because of these facts and circumstances, has been totally unable to act as administrator or to perform his duties in this matter, so, at this time I think the court has given to Mr. Sassower every opportunity to cooperate with him, and has urged him to cooperate.

I ask that you unconditionally enforce your order of April 28th, 1977, directing Mr. Sassower to turn over to the Public Administrator all books, papers and property of the estate of Eugene Paul Kelly.

Your Honor, specifically, since Mr. Sassower has shown a wilful disregard for the order of this court and for the office of the Public Administrator, I ask that the court hold him in contempt. I don't think that he is going to honor any further directives of this court to appear in court. I think you have already asked him and directed him to appear on many occasions, and he has ignored the court. I don't think anything but an actual contempt citation at this time would produce any results.

THE COURT: Pursuant to Section 750 of the Judiciary Law, I hereby adjudge George Sassower to be in criminal contempt of this court for the unlawful disobedience of an order of this court dated April 28th, 1977, directing George Sassower to turn over the assets and records of the estate of Eugene Paul Kelly, deceased, and the further direction in open court on June 15th, 1977, directing the

said George Sassower to turn over the said books and records. It is hereby ORDERED AND ADJUDGED that the said George Sassower be imprisoned in close custody in the jail of the County of Suffolk, for a period not exceeding thirty days, and it is further

ADJUDGED that a warrant of commitment shall issue to carry out and effect the provisions of this final order.

Mr. Berger, submit the appropriate order and the warrant of commitment for my signature.

MR. BERGER: I will do so. Thank you.

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I, VIRGINIA D. MATHIAS, Official Surrogate's Court Reporter, do hereby certify that the foregoing eleven pages comprise a true and accurate transcript of the colloquy conducted before Hon. Ernest L. Signorelli, Surrogate, at the Surrogate's Court in Riverhead, on the 22nd day of June, 1977 in the matter of the accounting in the estate of Eugene Paul Kelly, deceased.

Surrogate's Court Reporter.