

STATE OF NEW YORK
SURROGATE'S COURT : COUNTY OF SUFFOLK
-----X

In the matter of the accounting of

GEORGE SASSOWER,

as Preliminary Executor of the Estate of

File No. 736-P-1972

EUGENE PAUL KELLY,

Deceased,
-----X

WARNING!

YOUR FAILURE TO APPEAR IN COURT
MAY RESULT IN YOUR IMMEDIATE ARREST
AND IMPRISONMENT FOR CONTEMPT OF COURT.

ORDER TO SHOW CAUSE
TO PUNISH FOR CONTEMPT
WITH SUPPORTING PAPERS AND EXHIBITS.

Exhibit 3

At a Term of the Surrogate's Court at Suffolk County, held at the Courthouse thereof, Suffolk County Center, Riverhead, New York, on the 25th day of January, 1978.

PRESENT:

HON. ERNEST L. SIGNORELLI,
Surrogate.

----- X

In the Matter of the Accounting of

GEORGE SASSOWER,

as Preliminary Executor of the
Estate of

EUGENE PAUL KELLY,

Deceased.

ORDER TO SHOW CAUSE TO
PUNISH FOR CRIMINAL CONTEMPT

File No. 736 P 1972

----- X

Upon the annexed affidavit of ANTHONY MASTROIANNI, Public Administrator of Suffolk County, sworn to on the 9th day of September, 1977, the copy of the order of this court made and entered on April 28th, 1977 (Exhibit C), upon proof of service of a copy of said order in open court upon GEORGE SASSOWER on April 28th, 1977, and upon the annexed supplemental affidavit of ANTHONY MASTROIANNI, sworn to on January 25th, 1978, and on all the pleadings and proceedings had herein,

NOW, on motion of VINCENT G. BERGER, JR., ESQ., Attorney for ANTHONY MASTROIANNI, Public Administrator of Suffolk County, it is

ORDERED, that GEORGE SASSOWER show cause before this court at the Courthouse of the Surrogate's Court, located at the Suffolk County Center, Riverhead, New York, on the 7th day of February, 1978, at 10:00 o'clock in

WARNING:
YOUR FAILURE TO APPEAR IN COURT
MAY RESULT IN YOUR IMMEDIATE ARREST
AND IMPRISONMENT FOR CONTEMPT OF COURT.

the forenoon of that day, or as soon thereafter as counsel can be heard, why an order should not be granted, pursuant to the Judiciary Law of the State of New York, punishing him for criminal contempt of court for his willful failure and refusal to comply with the lawful order of this court made and entered on April 28th, 1977 (Exhibit C), as set forth in the annexed affidavit and supplemental affidavit of ANTHONY MASTROIANNI, together with such other and further relief as the court may deem just and proper,

SERVICE of a certified copy of this order, together with the papers upon which it is granted, personally, upon GEORGE SASSOWER, on or before the 25th day of January, 1978, shall be deemed sufficient.

S/ERNEST L. Signorelli
SURROGATE

STATE OF NEW YORK
SURROGATE'S COURT : COUNTY OF SUFFOLK
-----X

In the Matter of the Accounting of

GEORGE SASSOWER,

as Preliminary Executor of the Estate
of

File #736-P-1972

EUGENE PAUL KELLY,

Deceased.

FILED
SURROGATE'S COURT
SUFFOLK COUNTY

SEP 13 1977

-----X
STATE OF NEW YORK)
 : SS.:
COUNTY OF SUFFOLK)

MERWIN S. WOODARD
CHIEF CLERK

ANTHONY MASTROIANNI, being duly sworn, deposes and says:-

1. I am the Public Administrator of Suffolk County with offices located at the Suffolk County Center, Riverhead, New York. I make this affidavit in support of the annexed application, by order to show cause, why GEORGE SASSOWER should not be punished for contempt of court for his willful failure and refusal to comply with the lawful order of this court made and entered on April 28th, 1977.

2. On March 9th, 1976, Letters Testamentary previously issued to the said GEORGE SASSOWER on September 9th, 1974, were revoked by the Surrogate of Suffolk County. Thereafter, by decree of the Surrogate, made and entered on March 25th, 1977, a copy of which is annexed as Exhibit A, I was appointed Temporary Administrator of the Estate of EUGENE PAUL KELLY. Upon the filing of a bond in the sum of \$50,000.00 ordered by the court, Temporary Letters of Administration were issued to me on March

29th, 1977. A copy of a Certificate of Temporary Letters of Administration is annexed hereto as Exhibit B. Subsequently, no books, papers, records or assets of the estate were turned over to me by Mr. Sassower and, on April 28th, 1977, an order was made and entered in this court which in part, provided the following:-

"It is ORDERED that GEORGE SASSOWER transmit to the Temporary Administrator, ANTHONY MASTROIANNI, all books, papers and other property of the estate of EUGENE PAUL KELLY in his possession or under his control on or before May 5, 1977."

A copy of the above-mentioned order is annexed hereto as Exhibit C. A copy of said order was personally served upon the said GEORGE SASSOWER in open court on April 28th, 1977.

3. Subsequent to the above events, GEORGE SASSOWER failed to transmit to me, as Temporary Administrator, all books, papers and other property in his possession or under his control. The matter appeared on the trial calendar of the court on June 1st, 1977, at which time Mr. Sassower by affirmation requested an adjournment which was granted to June 15th, 1977. On that date, my attorney, VINCENT G. BERGEN, JR., ESQ., appeared in court and informed the Surrogate that Mr. Sassower, who was present at that time, had not complied with the order of April 28th, 1977. After lengthy discussions in open court and an offer by my attorney to use the facilities of my office to make necessary photocopies, the Surrogate adjourned the matter to June 22nd, 1977, at 11:30 A.M., in order to give Mr. Sassower an opportunity to fully comply with the order.

4. On June 22nd, 1977, no appearance was made by Mr.

Sassower nor was there any compliance with the order dated April 28th, 1977 by that time, except for the furnishing of some nominal documents. To this date, the said GEORGE SASSOWER has failed and refused to transmit to me all of the books, papers and other property of the estate of EUGENE PAUL KELLY in his possession or under his control as directed by the order of the Surrogate. The disobedience and resistance by Mr. Sassower to the lawful mandate of the court was and is willful and contemptuous as is clearly indicated by the foregoing facts and circumstances. Said refusal and neglect of the said GEORGE SASSOWER to obey the order has deprived me of the necessary records, papers and property which are necessary in order for me to properly assume and discharge my duties concerning the administration of the estate..

5. The willful disobedience and resistance by GEORGE SASSOWER to the lawful order of this court, as indicated by the above facts and circumstances, constitutes a criminal contempt of court as defined by the Judiciary Law of the State of New York.

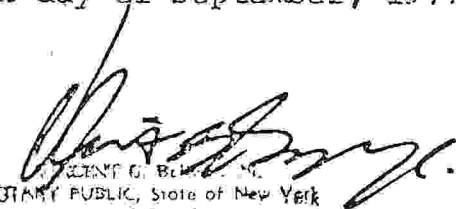
6. No prior application has been made for the relief requested herein, except that an order of contempt against GEORGE SASSOWER was entered by the Surrogate on June 22nd, 1977, which order was annulled by decision of the Supreme Court, Suffolk County, dated July 28th, 1977, "without prejudice to such other contempt proceedings as the court may be advised to bring." In addition, an application was made for similar relief by order to show cause signed by HON. OSCAR MUROV, Acting

Surrogate of Suffolk County, on August 10th, 1977, which order was returnable on August 16th, 1977. Although that application was granted by decision and order of the court dated August 19th, 1977, said decision and order were later vacated by order of HON. OSCAR MUROV by decision dated September 1st, 1977. Said decision provided that "The Public Administrator may renew his application to punish for contempt pursuant to the new contempt procedure set forth in Chapter 437 of the Regular Session Laws of 1977." A copy of said decision is annexed hereto as Exhibit D.

WHEREFORE, deponent respectfully requests that an order be issued directing GEORGE SPASSNER to show cause why he should not be punished for criminal contempt of court for his misconduct and contempt in willfully refusing to comply with and obey the lawful order of this court made and entered on April 28th, 1977, together with such other and further relief as the court may deem just and proper.

Sworn to before me this
9th day of September, 1977.


ANTHONY MASTROIANNI


NOTARY PUBLIC, State of New York
No. 52-0257943

Qualified in Suffolk County
Comm. Expires March 29, 1979

At a Surrogate's Court held in and
for the County of Suffolk at the
County Center, Riverhead, New York
on the 25 day of March 1977

Present:

HON. ERNEST L. SIGMORELLI,
Surrogate

----- X
In the Matter of the appointment :
of a Temporary Administrator of :
the Estate of :
EUGENE PAUL KELLY, :
Deceased. :
----- X

DECREE

File No. 736 P 1972

It appearing that one George Sassower was appointed
Executor of the Estate of EUGENE PAUL KELLY, deceased, pursuant to
a decree of this court dated September 9, 1974 which admitted the
will of said decedent to probate and that Letters Testamentary
were issued to said George Sassower on September 9, 1974, and that
such Letters Testamentary were thereafter revoked pursuant to an
order of this court dated March 9, 1976, and it appearing that
there is a pending accounting proceeding in the matter of said
decedent's estate which was commenced on April 15, 1976 in which
the said George Sassower requests that his account of proceedings
as submitted to this court be judicially settled and it further
appearing that neither the alternate executor named in the will
of decedent, who was the attorney for said George Sassower as
petitioner in the proceeding for probate of decedent's will and
who is his attorney in the said pending accounting proceeding,
nor any person interested in decedent's estate have made applica-
tion for the appointment of a personal representative of deced-
ent's estate and it being necessary that a fiduciary be ap-

Exhibit

pointed in decedent's estate in order to continue the administration thereof, to appear and participate in such pending accounting proceedings and to institute a New York State Estate Tax proceeding, and the court having directed the respective counsel in said accounting proceeding to appear at the court from time to time with respect to the matters which appear to be at issue in such proceeding, and the attorney for said George Sassower who coincidentally is the alternate executor named in decedent's will never having appeared at such conferences despite such direction and the need for a personal representative of decedent's estate having been presented to the court by Ernest Wreck, Guardian ad Litem, who appeared at the last of such conferences to date, held on March 17, 1977, and said George Sassower having been present thereat and there being no objection by those present, other than said George Sassower to the application of Ernest Wreck, Guardian ad Litem, that the court appoint the Public Administrator of Suffolk County as temporary administrator of decedent's estate, now therefore, it is

ORDERED and DECREED that Anthony Macrodonald, Public Administrator of the County of Suffolk, New York be and he hereby is appointed Temporary Administrator of the Estate of ~~THOMAS PAUL KELLY~~, and that Letters as such be granted and issued to him upon qualification and the filing of a bond in the sum of \$50,000.00.

ERNEST L. SIGNORELLI

Ernest L. Signorelli, Sergeant

FILED
SURROGATE'S COURT
SUFFOLK COUNTY

MAR 25 1977

THOMAS P. KELLY



MAR 29 1977
MERWIN S. WOODARD
CHIEF CLERK

File No. 736 P 1972

THE PEOPLE OF THE STATE OF NEW YORK

TO: ANTHONY MASTROLIANNI, As Public Administrator of Suffolk County

WHEREAS, EUGENE PAUL KELLY, late of Bay Shore, in the County of Suffolk, and State of New York, died on the 26th day of April, 1972; and

WHEREAS, it is necessary and desirable for the protection of the property that Temporary Administrator be immediately appointed;

KNOW YE, that we, being desirous that the goods, chattels and credits of said decedent may be collected and preserved, do grant unto you, the said ANTHONY MASTROLIANNI, As Public Administrator of Suffolk County, full power and authority, by these presents, to take into your possession the personal property of said decedent, and to secure and preserve it with all the power and authority conferred upon you by law, hereby requiring you to render a just and true account of your administration as such temporary administrator whenever required by our said Surrogate, and faithfully to deliver up the goods, chattels and credits of said decedent to any person or persons who shall be appointed executor of the Will of the said EUGENE PAUL KELLY, deceased, or administrator of such estate, or to such other person as shall be authorized to receive the same by said Surrogate.

NOW THEREFORE WITNESSETH that ANTHONY MASTROLIANNI, As Public Administrator of Suffolk County having duly qualified as Temporary Administrator of said estate, and having filed a bond in the sum of \$50,000.00 dollars, Temporary Letters of Administration are hereby granted and issued to him with the powers and duties thereunto appertaining by law.

DATED, ATTESTED, and SEALED

March 29, 1977

IN TESTIMONY WHEREOF, we have caused the Seal of Office of our said Surrogate to be hereunto affixed.

SEAL

FILED
SURROGATES COURT
SUFFOLK COUNTY

MAR 29 1977

MERWIN S. WOODARD
CHIEF CLERK

WITNESS, HON. ERNEST L. SIGMORELLI
Surrogate of said Court, at
his office in Riverhead, in
said County, the 29th day of
March, in the year of our Lord
one thousand nine hundred and
seventy-seven.

MERWIN S. WOODARD
Chief Clerk of the Surrogate's
Court

Exhibit B

At a Surrogate's Court held in and for the County of Suffolk at the County Center, Riverhead, New York on the 13th day of April, 1977

Present:

HON. ERNEST L. SIGNORELLI,
Surrogate

-----X
In the Matter of the appoint- :
ment of a Temporary :
Administrator of the :
Estate of :
:
EUGENE PAUL KELLY, :
:
Deceased :
-----X

ORDER

File No. 736 P 1572

It appearing that Letters Testamentary issued to one GEORGE SASSOMER were revoked by order of this court dated March 9, 1976 and

It further appearing that by order of this court dated March 25, 1977 one ANTHONY MASTROIANNI, Public Administrator of Suffolk County was appointed Temporary Administrator of the estate of EUGENE PAUL KELLY and that Letters have issued to said ANTHONY MASTROIANNI as Temporary Administrator

It is ORDERED that GEORGE SASSOMER transmit to the Temporary Administrator, ANTHONY MASTROIANNI, all books, papers and other property of the estate of EUGENE PAUL KELLY in his possession or under his control on or before May 5, 1977.

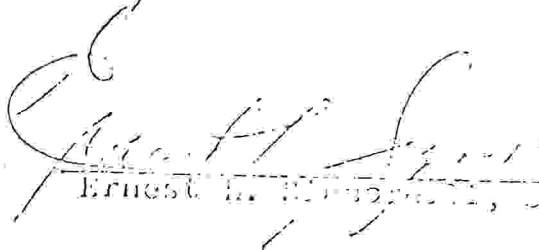

Ernest L. Signorelli, Surrogate

Exhibit C

SURROGATE'S COURT : SUFFOLK COUNTY

DECISION

In the matter of the accounting of
 George Sassower,
 as preliminary executor of the
 estate of
 EUGENE PAUL KELLY,
 Deceased.

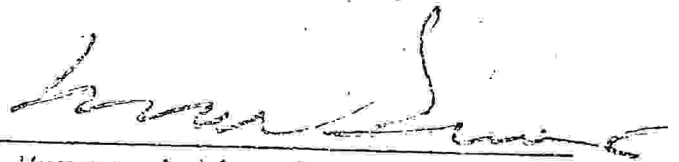
By: HON. OSCAR MUROV
 Acting Surrogate

Dated.... September 1st19.77...

File # .736 P 1972

This matter having been on the calendar on Monday, August 29, 1977 and the parties having failed to appear at that time, the court dismisses the Public Administrator's application to hold respondent in contempt of court. Petitioner failed to give respondent the proper notice as required pursuant to the new contempt procedure enacted into law during the pendency of the underlying proceeding. The court vacates its decision and order of August 19, 1977 and the order to show cause dated August 10, 1977. The Public Administrator may renew his application to punish for contempt pursuant to the new contempt procedure set forth in Chapter 437 of the Regular Session Laws of 1977.

This decision constitutes the order of the court.



Oscar Murov, Acting Surrogate

Vincent G. Berger Jr., Esq.
 6351 Jericho Turnpike
 Commack, New York 11725
 Attorney for
 Public Administrator

FILED
 SURROGATE'S COURT
 SUFFOLK COUNTY

George Sassower, Esq.
 75 Wykagyl Station
 New Rochelle, New York 10804

SEP 1 1977

MERWIN S. WOODARD
 CHIEF CLERK

Exhibit

STATE OF NEW YORK, COUNTY OF SUFFOLK SS.:

The undersigned, an attorney admitted to practice in the courts of New York State, shows: deponent is the attorney of record for in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by because said party resides outside the county where your deponent maintains his office.

The grounds of deponent's belief as to all matters not stated upon deponent knowledge are as follows: Books, papers and records in the possession and control of your deponent.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: Commack, New York.

19

VINCENT G. BERGER, JR.

Attorney's Certification

STATE OF NEW YORK, COUNTY OF SUFFOLK SS.:

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that the within statutory notice, order to show cause to punish has been compared by the undersigned for contempt with supporting papers and exhibits and complete copy.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: Commack, New York.
~~November 8th,~~

JANUARY 25,

1978.

VINCENT G. BERGER, JR.

Affidavit of Service

STATE OF NEW YORK, COUNTY OF SUFFOLK SS.:

being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at Commack, New York.

On , 19 , deponent served the within upon

attorney(s) for

in this action, at

the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in a - post office - official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me on

, 19 .