

NOTICE OF MOTION FOR ORDER PASSING ACCOUNTS # AND FOR COMMISSION

COURT DETAILS

Court	Supreme Court of New South Wales
#Division	Equity
#List	Probate
Registry	Sydney
Case number	

TITLE OF PROCEEDINGS

[First] plaintiff **[name]**

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant **[name]**

#Second defendant #Number of
defendants (if more than two)

The Estate of **[name of deceased]** Date of death: **[date]**

FILING DETAILS

Filed for	[name] [role of party eg plaintiff #applicant (if not the named executor or administrator on the grant of representation)]
#Filed in relation to	[eg plaintiff's claim, (number) cross-claim] [include only if form to be eFiled]
#Legal representative	[solicitor on record] [firm]
#Legal representative reference	[reference number]
Contact name and telephone	[name] [telephone]
Contact email	[email address]

ORDERS SOUGHT

- 1 An order passing the [first/second etc] accounts of the administration of the estate of [Name of Deceased] from [date] to [date].
- 2 #An order allowing commission.
- 3 The costs of and incidental to the filing and passing of the accounts #and of the application for commission.
- 4 Such further other orders as the Court thinks necessary

SIGNATURE

#Signature of legal representative

#Signature of or on behalf of
person seeking orders if not
legally represented

Capacity

[eg solicitor, authorised officer, role of party]

Date of signature

AFFIDAVIT

Name [Note: All executors must swear the affidavit verifying the accounts. If new trustees have been appointed include evidence of appointment]

Address

Occupation

Date

I/We [#say on oath #affirm]:

1. I am/we are the executor/administrator/trustee/s of the will/estate of the deceased (*name of deceased*), who died on (*date*). The Court granted probate/administration to me/us on (*date*).

2. The following accounts contain a full, true and just account of:
 - a) all moneys that I/we have received in the Estate, or which have come into the hands of any person or persons for me/us;
 - b) all moneys that I/we have paid from the Estate, or that any person or persons has paid for me/us;and my/our administration of the same from the date of death of the deceased (*date*) until (*date*)¹.

3. The following accounts contain:
 - a) a statement of all estate assets that have come into my/our hands as realised;
 - b) a statement of all estate assets that have come into my/our hands which have been realised and subsequently reinvested;
 - c) a statement of all estate assets that have come into my/our hands and been transferred in specie;
 - d) a statement of all estate assets that have come into my/our hands and remain unrealised;
 - e) a statement that reconciles the balance held as shown in the accounts with the balance held in the bank account of the estate at the close of the accounts (“the bank reconciliation”); and

¹ For second or further accounts delete the words “the date of death of the deceased”.

- f) a statement of all estate assets as listed so as to identify the item numbers the item numbers of those realised with the items listed in the inventory.
4. Notice of intention to verify, file and pass accounts [#and apply for commission] was published on the Court's online website on (*date*).
5. Exhibited to me/us at the time of swearing this affidavit and marked Ex-1 is a folder containing various documents, including receipts and bills. Each document is identified by and marked with its item number as occurring in the accounts. Ex-1 comprises² :
- Tab A: Receipts for assets transferred in specie, and for the payment of legacies or distributions;
- Tab B: All bills for legal professional costs detailed in the accounts³ .;
- Tab C: All bills for other, non-legal, professional costs detailed in the accounts, eg accountancy fees;
- Tab D: Settlement statement for the sale of any real estate, including any agent's deposit statement;
- Tab E: Receipts for any disbursements which are large, unusual or require explanation⁴;
- Tab F: Where the executor has carried on the business operated by the deceased, separate trading accounts (such as a financial statement and profit and loss statement) for the business for the same period covered by the accounts;
- Tab G: Subsidiary accounts for each of [name each beneficiary] for whom money is held on trust [eg a minor]⁵;
- Tab H: In respect of any property from which rent is derived a statement that

² Delete any tab that does not apply.

³ If the bills total more than \$100,000 a separate table containing details of all bills should be provided.

⁴ Receipts must be produced to account for any reimbursements to the executor/s, administrator/s or beneficiaries.

⁵ Subsidiary accounts are required for each beneficiary for whom money is held exclusively on trust and separately from the money held for the beneficiaries of the main estate.

shows the total rent received in the period covered by the accounts and a listing of all expenses incurred, the total of which is subtracted from the total rent received to show that the net rent derived. The accounts show the rent received as receipts and the expenses paid from the rent are shown as payments;

Tab I: Any bills for professional work done during the accounts and not charged for in the accounts;

Tab J: Evidence of the balance held at the close of accounts.

Second, Third or later Accounts

Tab K: A copy of the certificate of correctness [#and order for commission] in the previous accounts;

The previous accounts were prepared by [person/firm].

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. #I saw the face of the deponent. [OR, delete whichever option is inapplicable]

 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹

2. #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]

#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)²

Signature of witness

The Estate of the late [name of deceased]⁶

Statement of RECEIPTS for the period from [date] to [date]

Item #	Date received	From whom received	Description	Amount received	
				Capital	Income
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.			<i>[Add additional rows as required]</i>		
Total Receipts				\$	\$

Statement of DISBURSEMENTS for the period from [date] to [date]

Item #	Date paid	To whom paid	Description	Amount disbursed	
				Capital	Income
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.			<i>[Add additional rows as required]</i>		
Total disbursements				\$	\$

⁶ First accounts to be from date of death

Credit Balance	\$	\$
[Add the total distributions to the credit balance = capital and income received] Total	\$	\$

ASSETS REALISED

Item #	Inventory #	Details of assets	Value realised
<i>[Add additional rows as required]</i>			
Total value			\$

REINVESTED ASSETS

Date of investment	Details of investments	Amount outlaid	Value at close of accounts
<i>[Add additional rows as required]</i>			
Total value			\$

ASSETS TRANSFERRED

Inventory #	Details of assets	Transferred to	Receipt filed ✓	Value
<i>[Add additional rows as required]</i>				
Total value				\$

ASSETS UNREALISED

Inventory #	Details of assets	Value

	<i>[Add additional rows as required]</i>	
	Total value	\$

BANK RECONCILIATION, that reconciles the balance held as per the accounts with the balance held in the bank at the close of the accounts

Capital Receipts (CR)		\$
Capital Payments (CP)		\$
Credit [or debit] Balance (CB1)	[CR – CP = CB1]	\$
Income receipts (IR)	\$	
Income payments (IP)	\$	
Credit [or debit] Balance (CB2)	[IR - IP = CB2]	\$
Balance held at close of accounts (as per accounts)	[CB1 + CB2 = Balance held]	\$
Bank account/s: Estate of [deceased] held at [name of bank]		\$
<i>[Add additional rows as required]</i>		\$
Total bank accounts		\$
Plus cash in transit ⁷ (if applicable)		
	Subtotal	\$
Less unrepresented cheques ⁸ (if applicable)		
	Balance held	\$

** Balance at close of accounts should equal the amount held in the bank accounts at the close of accounts⁹*

FIGURES FOR CERTIFICATE OF CORRECTNESS OF ACCOUNTS for the purpose of assessing commission

Capital Receipts		\$
<i>Deduct all capital receipt amounts that are non-commissionable including refunds for payments made by the executor or proceeds of realisation of reinvested assets</i>	1. <i>[capital receipt item number and detail]</i>	\$
	2.	\$
	3.	\$
	4.	\$
	5. <i>[Add additional rows as required]</i>	\$
<i>Total deductions</i>		\$
Total Capital Receipts after deductions		\$

⁷ Cash in transit means monies that have been shown as received in the statement of receipts but not banked at the close of the accounts.

⁸ Unrepresented cheques means monies that have been shown as paid in the statement of payments but for which cheques have not been presented at the close of accounts.

⁹ This figure must be confirmed by exhibited bank accounts.

Income Receipts			\$
<i>Deduct refunds of amounts paid by the executor including recovery of rate adjustments on the sale of property, refunds of insurance premiums and recovery of PAYG credits that were paid after death</i>	1.	<i>[income receipt item number and detail]</i>	\$
	2.		\$
	3.		\$
	4.		\$
	5.	.	\$
	6.	<i>Add additional rows as required</i>	\$
<i>Total deductions</i>			\$
Total Income Receipts after deductions			\$