

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: MINUTES OF MEETING HELD
THURSDAY, AUGUST 3, 1995

PRESENT: JEAN GRAPES, PRESIDENT
HOLMES R. SHAVER, COMMISSIONER

ABSENT: STEVEN A. GRIMM, COMMISSIONER

On this date, the County Commission met in regular session. They signed purchase orders, invoices and other correspondence.

On this date, the County Commission, upon a motion made by Holmes R. Shaver, seconded by Jean Grapes and passed, approved minutes from Monday, June 26, 1995.

On this date, the County Commission approved an Exoneration for Carl E. Dollman - Walker District.

On this date, Robert Tranquill stated that the price of envelopes is going to be raising; 60,000 envelopes of each kind was \$1,167.00, which will increase by at least \$200.00-\$300.00 and the other one was about \$600.00 which will be \$800.00 or \$900.00 this time; said envelopes are used for the tax tickets; wanted to know if they would pay the difference. Commissioner Grapes asked where he got the price and asked if he had tried anywhere else. Mr. Tranquill stated that he did and he found that Assurance has the most competitive prices. Commissioner Grapes stated that if the price went up and he tried to get a good price, then the Commission will pay the difference. Mr. Tranquill stated that if he is only asking them to pay the difference of the price of the envelopes if his supplies line item runs out.

At 9:30 A.M., Kay Williams, with the Wood County Employee

Benefits Committee met with the Commission to discuss the cardiac risk factor test. Mrs. Williams wanted to know if the County Commission would still pay part of the cost. Mrs. Williams stated that last year the Commission paid \$5.50 and the employee paid \$5.00. The County Commission agreed to pay half of the cost.

At 10:00 A.M., the County Commission held a hearing in regard to the Robert Burk estate. Attorney Joseph Albright asked the Commission what their policy was on having cameras in the Courtroom. Commissioner Grapes stated that they have an open hearing policy but would hear any arguments. Mr. Albright stated that even though this is not an executive session, it is not an unemotional situation and it is a difficult situation and doesn't know of any particular purpose it serves to have the cameras in the Courtroom. Commissioner Shaver agreed with Commissioner Grapes. Attorney Joseph Brown stated that a motion was filed on behalf of Mr. Myers, Mr. Powell and Mr. Zivkovich to remove Mrs. Burk as Executrix of the estate; a second motion was filed by Commercial Bank. Mr. Brown stated that the representation made by Mr. Albright was that on or before the 28th an inventory and appraisal would be filed with the County Clerk, but as of last night there had been nothing filed, nothing done in this estate from the time of qualification until today. Mr. Albright stated that was nearly accurate but not completely so, yesterday afternoon he advised Mr. Brown that he probably wouldn't have the appraisement done by Friday, but it would be done by the first of the week, it was signed by Mrs. Burk and brought to the County Commission yesterday and the filing fee was paid, they were told to take it to

the Fiduciary Commissioner's office, we did so. The County Commission took a recess while they attempted to reach the Prosecuting Attorney. After the Prosecuting Attorney, Michele Rusen, arrived, the hearing continued. Mr. Albright then stated again that he doesn't wish to have a closed hearing but wanted to discuss the cameras in the Courtroom. Ms. Rusen stated that the Commission has an open policy and it is up to them whether the cameras are here or not. The Commission agreed that the cameras would stay. Witnesses were sworn in: Steve Winemeyer, David Righter from Commercial Bank, and Susan Burk. Mr. Brown stated that Mr. Burk died November 20, 1994 and until this morning nothing has been done and there are very serious matters pending; even the filing of the papers does not dissolve the matters that we are here to discuss today; there are other reasons for removal other than the filing of the papers; a trust account in Mr. Burk's name has not been taken care of. Attorney Dave Palmer stated that he is proceeding despite the fact the appraisal has been filed because they believe that there has been a breach and neglect of her duties to act as Executrix of this estate as well as several conflicts of interest. Mr. Albright stated that they take the position that they did what they were told to do, but have no objection to considering an alternative commissioner; to say that nothing has been done, is not so; Mr. Palmer's client filed a lawsuit within thirty days of Mr. Burk's death has caused much upset, and difficulty acquiring legal counsel; the Commission needs to determine whether all of the delays are reasonable and not a neglect of duty; she has every right to be Executrix of the estate of her

husband. C. Blaine Myers, former partner of Mr. Burk, stated that the following week of Mr. Burk's death he and the other partners reviewed all open client files with the assistance of Mr. Burk's secretary and notified all clients, by letter; he found out about the trust account from Bob Liggett, which had a large sum of money for the sheet metals union; there was less money than there should have been due to advances in the amount of \$30,000.00 that had not been repaid according to a ledger kept by Dottie Midkiff, his former secretary; Bob had provided legal services for the union; all partners had a trust account of their own; they started sharing office space at Town Square in September, 1990 and then became partners in 1992; he did speak with James Cagle in Charleston, Mrs. Burk's attorney, about the missing funds through a letter, (said letter is attached to these minutes marked Exhibit I) he did not receive a response until December 24, 1994 (letter is attached to these minutes marked Exhibit II); Mrs. Burk was pursuing the divorce action at the time; they wanted to communicate with all parties about the shortfall (in regard to the money), they then retained Mr. Brown to represent them (Myers, Powell and Zivkovich); a copy of the letter prepared by Mr. Brown notifying the Trustees of the shortfall was presented (a copy of which is attached to these minutes marked Exhibit III); there was a demand for payment to be made to the Sheet Metals Union, but he didn't know if any response was made by Mrs. Burk or her attorney; he sent Mrs. Burk an inventory of the office (a copy of this is attached and marked as Exhibit IV); Mrs. Burk had free access to Mr. Burk's office until they found out about the

shortfall which may of been in December, they then changed the locks at the office, after the lock change, she came and went freely during business hours; she and Dottie Midkiff came several times and removed things that belonged to him; by letter dated May 16, 1995 (copy is attached and marked Exhibit V) which describes what property the law firm wanted to keep, said letter also asked her to remove the personal items that remained. More discussion took place. Mr. Myers then stated that as far as he knows, Mrs. Burk has not paid the money that is owed the union. While being questioned by David Palmer, Mr. Myers stated that interest can still accrue on the money that is to be paid while nothing is being done with the estate, making the amount that needs to be repaid increase; he has not seen any activity with the trust account by Mrs. Burk; he believes the letter from Mrs. Burk's attorney stated that the divorce would be put on the front burner and the estate on the back burner; in a divorce she would have received half of everything that was acquired during the marriage; she was wearing the hat of the Fiduciary of the estate and the hat of pursuing her divorce action, and since Bob was dead, it was against the estate. Mr. Albright then questioned Mr. Myers. Mr. Myers stated during this questioning that bills were sent to Mr. Burk's clients and made it clear to clients that it was for the estate; some money was received and deposited by his secretary into his business operating account, disbursements were made to pay her salary during December and January and a payment of \$600.00 to the law firm for Mr. Burk's expenses for November, while he was living; he told Mrs. Burk what they were doing with this money in a letter

to Mr. Cagle (Exhibit I); in December and January payments were received, of which was paid to the secretary. More discussion. Mr. Myers stated that he did not know of any other persons or entities who have money in the IOLTA account and no one has made a claim that they do. Mr. Albright asked if the letter of December 23, 1994 in which it says that Mrs. Burk does not now have the ability to address the trust account matter could possibly mean that she doesn't have enough cash to make up what you (Myers) computed was the difference of the money on hand and the difference that might be due the sheet metal workers; is it not subject to that interpretation. Mr. Myers stated that he doesn't disagree with the interpretation. Mr. Myers stated that all of the assets would go into a trust fund according to the will. More discussion took place. Mr. Albright asked if the bank statements for the IOLTA account were delivered every month when they were received by Mr. Myers, to Mrs. Burk. Mr. Myers stated that for some time Susan picked up the mail; the bank statements and checkbook were given to Susan. The Commission took a five minute recess. Mr. Myers stated that he told Mrs. Burk that title abstract files needed to remain where they are; they are probably the best set of title files there are in the County, which lawyers and banks use; they were put together by Mr. Bailey and Mr. Burk; we consider these an asset of the partnership and used, added to or expanded by us; we don't own the maps, we just have an interest in them; Mrs. Burk offered to sell them to Spilman and Thomas; Mrs. Burk has been excluded from the office after she and Mrs. Midkiff for about two days, removed files from the office, without communication as to what

files they were taking, they were just carrying them out in boxes; he suggested that the client files from the last five years should remain. Mr. Brown then asked Mr. Myers if he had directly advised Mrs. Burk of the availability of the personal property of Mr. Burk that is presently in his office. Mr. Myers stated that yes he did; she did not ask that any personal property be moved anywhere; she apparently approached Spilman and Thomas after he told her they would like the abstract files to remain in the office. Mr. Myers stated that he does feel it is appropriate to remove Mrs. Burk as Executrix. Mr. Albright asked if the firm made any formal proposal to Mrs. Burk to dissolve the personal property in which you have joint interest or made any proposal for the division of responsibilities and rights with respect to the real estate interest. Mr. Myers stated that he didn't believe that they made any proposal with respect to disposition of debt in a lease hold estate interest, but we did on the jointly owned personal property; we haven't made a proposal on the abstract files. Mr. Palmer called Susan Burk to the stand. Mrs. Burk stated that she obtained Mr. Albright as her attorney in May, 1995; she had Mr. Cagle, her divorce attorney, who tried to assist her from Charleston; Mr. Cagle did not at any time claim to be her estate attorney, but he was trying to help her; during the six month time period before she hired Mr. Albright, she had two meetings with Randy Law, in the Trust Department; she did not file an appraisal until yesterday; she stated that she did not receive a list from Myers, Powell and Zivkovich of the property; she has two separate estates account, one was at Commercial Bank but then she transferred

it to United National Bank; she feels that she still doesn't have all of the property as of yet; she has received information in bits and pieces; she has sold his car and placed in the estate account; she has made changes in the Keough plan of her husband. Mr. Albright stated that the benefits of the Keough plan are exempt from debts of any nature and are the sole property of the beneficiary. Mr. Albright asked if, prior to obtaining him as her lawyer, for the purpose of the estate did you try to get other lawyers to assist you. Mrs. Burk stated that he was the eighth one she talked to; some said it was a conflict of interest some did not give reasons. Parts of the will were read by Mr. Albright. Mrs. Burk stated that they were separated for a year and couple of months. Mr. Albright called David Righter to the stand. Mr. Righter is Senior Vice President of Commercial Bank. Mr. Righter stated that Mr. Burk was not a director of Commerical Bank, he was a director of Commercial Bank (inaudible words) and director of the holding (inaudible word). More discussion took place. Mr. Righter stated that to his knowledge, information was not denied that Mrs. Burk requested. Mr. Albright called Susan C. Burk to the stand again. Mrs. Burk's desire is to be Executrix of her husband's estate; divorce action was pending; she has three sons, her husband's death was painful for all of them; she and her husband were married for thirty-one and one half years; she did not expect his death and did not hold any animosity toward him; his death was extremely difficult and still is; she is still grieving. Mr. Albright went over the appraisal with Mrs. Burk. Mr. Brown then questioned Mrs. Burk: the day after the funeral she, Bob's uncle and

her three sons played what they called the Bob Burk Memorial Nine Hole Golf Tournament; she stated that she hasn't done anything with the personal property at the office because Mr. Myers told her there was no rush; in May he requested that she move some of the items, but she hasn't done it yet because she felt she was no longer allowed in there without an attorney present, she was told by Mr. Brown that she was not allowed to be in there without a court order. Mr. Brown stated that he didn't remember. Mrs. Brown stated that she had a witness. Mr. Brown stated that didn't make any difference; the point is that she hasn't collected any assets. Mrs. Burk stated that it has been impossible, she hasn't yet received a final financial accounting from Myers, Powell and Zivkovich, she asked Blaine (Myers) and she hasn't received any kind of acknowledgment; she asked him several times. More discussion took place. The Vice President of one of the banks told her she could not touch the account that had the union money in it. Commissioner Grapes asked if she felt she could handle this estate and felt she was qualified to settle this kind of complicated estate. Mrs. Burk stated that she does now. Commissioner Shaver said that they would take this under advisement and let them know a decision on Monday. Mr. Brown asked that a special fiduciary commissioner be appointed, Jeffrey Elder and Robert Full both would be available; there is a conflict of interest with all of the fiduciary commissioners. Mr. Palmer agreed. Mr. Brown stated that there has been eight and one half months of little if any activity in the estate of Robert W. Burk and its been admitted; there is potential liability mounting daily; Susan hasn't done her job;

only today, do we finally get something; she's in a conflict of interest; she has tried to garner for herself marital assets which would come out of the estate on one hand but she's under her duty to gather all of the assets and place them in the estate pot, she can't do both; she has to have loyalty to the estate as Executor but she has loyalty to herself for individual assets, you can't wear those two hats; there are substantial debts in this estate; the Sheriff can take care of this estate, which is his recommendation. Mr. Palmer concurs with Mr. Brown because there is no one here, except for her, to say that she is willing and able to handle this estate; there has been no noticeable activity in this estate until after she was served with Mr. Brown's motion to remove her; now there has been activity and its incomplete; Joe Santer is most willing to act as counsel for the Sheriff and get this estate administered; she tried to get the assets herself by going on with the divorce; her actions to deprive her husband's former partners of simple fixture and files only underlie the fact that there is a conflict; is requesting Sheriff be appointed to handle this estate as well as a special fiduciary commissioner. Mr. Albright agreed that two of the fiduciary commissioner's have a conflict, but thinks that the other two do not; in regard to the matter of Mrs. Burk's pursuing the equitable distribution issue is serious misreading of the very letter to which it is based on, she testified that Mr. Cagle doesn't do estate work; what they are really saying is that they don't want Susan Burk with the assistance of Joe Albright to do it, they want the Sheriff with the assistance of Joe Santer to do it; the law gives her a

preference, and there is ample reason for all of the delay that has occurred, as a matter of fact she was left alone with no assistance; there are difficult problems to be resolved on the ownership, placement and valuation of many items on the appraisal; Mrs. Burk now has counsel and is ready to proceed with the job that needs to be done; the old code of ethics said that the lawyers had an obligation to the problems of widows, orphans and particularly those of brothers at the bar, even though that is technically removed from the code of ethics, it bears upon us all, the plain fact that the widow and orphans of this brother at the bar, were not cut any slack at all, by people who, he thinks, carry that burden; a problem was worked out with the former law partners simply by working it out; it would be my counsel to get the guidance of the Circuit Court on a couple of the matters dealing with the trust situation and the deferred compensation; is opposed to doing anything to raise the litigation costs; Mrs. Burk is designated by law, ready, willing and able and is seeking the cooperation of both of her opponents to carry that forward. Discussion was taking place but is inaudible on tape. The County Commission will make a decision on Monday at 2:00 P.M. Commissioner Grapes asked for the outcome of other cases to be supplied to the Commission. Commissioner Shaver asked that it be given to Ms. Rusen. Mr. Albright told Ms. Rusen what the case numbers were.

On this date, the County Commission of Wood County, upon a motion made by Holmes R. Shaver, seconded by Jean Grapes and passed, authorized Jean Grapes, in her official capacity as President and on

behalf of the County Commission, to sign the application for funding from the Community EMS Assistance Program of the West Virginia Department of Health and Human Resources, Office of Emergency Medical Services, Charleston, West Virginia. The request for funding in the amount of nine hundred thirty dollars and no cents (\$930.00) would be used to purchase communications equipment to replace aging pagers currently being utilized by volunteer members of the Williamstown Emergency Ambulance Service, Williamstown, West Virginia. Local cash in the amount of two thousand seven hundred eight dollars and no cents (\$2,708.00) will be combined with the aforementioned request for a total amount of three thousand six hundred thirty-eight dollars and no cents (\$3,638.00) for the purchase of the said pagers. All documentation pertaining to the said Community EMS Assistance Program is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

On this date, the County Commission of Wood County was in receipt of a letter from the Governor of West Virginia, Gaston Caperton, informing the County Commission that the application for funding from the Drug Control and System Improvement Grant in the amount of twenty thousand dollars and no cents (\$20,000.00) has been approved. The said Grant will continue the utilization of an Assistant Drug Prosecuting Attorney in the Wood County Prosecuting Attorney's Office for the period beginning August 1, 1995 and continuing through July 31, 1996 to prosecute drug cases in both the Magistrate Court and the Circuit Court of Wood County. The application and all documentation pertaining to such Drug Control and

System Improvement Grant is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

On this date, the County Commission of Wood County was in receipt of a letter from the Governor of West Virginia, Gaston Caperton, informing the County Commission that the application for funding from the Drug and Violent Crime Control Program in the amount of nine thousand two hundred thirty dollars and ninety-six cents (\$9,230.96) has been approved. The said Grant will allow the Wood County Sheriff's Department to continue the Drug Abuse Resistance Education (D.A.R.E.) Program in the County's four (4) elementary schools (Blennerhassett Elementary, Kanawha Elementary, Lubeck Elementary and Mineral Wells Elementary) for the period beginning August 1, 1995 and continuing through July 31, 1996. The County is responsible for matching funds in the amount of one thousand twenty-five dollars and sixty-six cents (\$1,025.66) which represents ten percent (10%) of the total grant amount. The application and all documentation pertaining to the said Drug and Violent Crime Control Program Grant is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

On this date, the County Commission of Wood County was in receipt of a Notice of Grant Award Change from the West Virginia Development Office, Charleston, West Virginia, in which the County Commission was given an extension on the time period for completion from June 30, 1995 to June 30, 1996 in regard to the Governor's Community Partnership Grant for the Waverly Library project. The said Award Change represents change order number three (3) for Grant

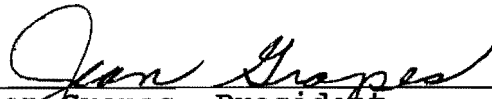
ID Number 91-92CPGP00, Project Number 92CPGP0115. Documentation pertaining to the said Community Partnership Grant is on file in the Office of the County Administrator. An Order was prepared regarding this matter.

The County Commission, pursuant to Chapter 7, Article 6, Section 1 of the Code of the State of West Virginia, ORDERED that the following be, and they are hereby, designated as County Depositories for Wood County, West Virginia, for the Fiscal year 1995-1996: Commercial Banking and Trust, Community Bank of Parkersburg, Huntington Bank, United National Bank, One Valley Bank NA and WesBanco. An Order was prepared regarding this matter.

Having no further scheduled appointments or business to attend to, the County Commission adjourned at

Approved:

THE COUNTY COMMISSION OF WOOD COUNTY



 Jean Grapes, President



 Holmes R. Shaver, Commissioner

PURCHASE ORDERS SIGNED ON AUGUST 3, 1995

No.	20135	Wal-Mart	\$	51.47
	20136	Broadwaters Motorcar		283.77
	20147	Shirt Tales		894.00
	20148	Walter F. Stephens		192.39
	20152	Sam's Club		83.04
	20179	Sam's Club		55.42

20181	Parkersburg Office Supply	69.26
20183	Lowe's Home Centers, Inc.	100.31
20186	SW Resources	7.20
20196	Viking Office Products	131.31
20215	Char Ann Sales & Service	68.64
20230	Broadwaters Motorcar	2150.27
20231	Parkersburg Office Supply	96.74
20236	Quorum	18.34
20237	Ashland Petroleum	122.70
20239	Viking Office Products	351.50
20240	Parkersburg Office Supply	156.00
20241	Peoples News & Parcel	5.83
20246	Noe Office	32.50
20249	Wal-Mart	106.64
20254	CWS	522.29

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December 8, 1994

James M. Cagle
1018 Kanawha Boulevard East
Charleston, West Virginia

Re: Robert W. Burk, Jr., Estate

Dear Mr. Cagle:

This letter will serve as a follow-up to Bill Powell's telephone conversation with you of December 7th. It is my understanding that you have requested from us an outline of the financial commitments to our partnership which were in place at the time of Mr. Burk's unexpected death. This letter will serve as an summary of these circumstances as they are known to us at this time.

For the purposes of this letter, I have divided Mr. Burk's commitments into three categories which are, in descending order of importance, as follows: (1) an apparent short fall in Bob's Trust Account; (2) long term loan and lease commitments; and (3) current contributions toward office expenses.

Perhaps it would first be helpful to briefly outline the nature of our relationship with Mr. Burk. Although we clearly have held ourselves out to the public as a partnership, we each operated within the partnership umbrella with considerable autonomy. With the exception of cases in which one or more partners work working together, of which there were several, each partner maintained primary responsibility for clients who had retained him. We had no formal written partnership agreement. We did, however, have a clear understanding that each of the partners would contribute to the common office expenses, be entitled to retain fees earned by that partner, subject to any adjustments as would be necessary for cases in which two or more partners were working together, or in which one partner substituted for another on an as needed basis. Each of the four partners maintained a separate Trust Account and separate operating account over which none of the other partners had access or control.

Movant's I 8/3/95

With respect to the most important problem with which we are now faced, subsequent to Bob's death, his secretary provided to us information which demonstrated that a significant short fall existed in Bob's Trust Account. As best we can ascertain from a cursory review of the files to this point, Bob represented a local union of the Sheet Metal Workers, and in the course of that representation, deposited into his Trust Account the sum of \$142,624.00 of funds belonging to the Sheet Metal Trustees. At the same time, Bob was representing the Trustees in their capacity as a defendant in a lawsuit which apparently involved a considerable amount of work. There also was a settlement in the case with the plaintiff. It appears from the documentation that we have available that from the original sum deposited in Bob's Trust Account he paid sums to himself as fees, reimbursement of expenses, and apparently an authorized payment to a third party in the amount of \$9,200.00. From the information we have available to us at this point, we know of no impropriety with regard to the payment of those fees and expenses. There was remaining after payment of such fees and expenses the sum of \$114,745.78 representing the remaining balance of the funds placed in Bob's hands. Since these funds were placed in his regular Trust Account, they did not draw interest pursuant to IOLTA.

Attached you will find a copy of a recapitulation of client funds which were held in Mr. Burk's Trust Account at or near the time that his former secretary, Dottie Midkiff, left his employment. This itemization was prepared by her, and can and will, of course, be updated. I am advised by Bob's current secretary, however, that there has not been substantial activity in the Trust Account since she commenced employment with him.

Most importantly, and regretfully, you will also find enclosed a copy of an itemization entitled "Advances" which was likewise prepared by Ms. Midkiff and left with Bob's current secretary at the time of Ms. Midkiff's termination of employment. It appears that Bob advanced to himself from time to time sums of money, and repaid these advances either from fees he subsequently received or from unknown sources. As you can see, a portion of the advance made on 11/30/93, and all of the advances made on 04/13/94 and 06/16/94 have not been repaid. This would indicate a short fall of approximately \$27,000.00. This short fall is consistent with the present balance of his Trust Account which is approximately \$86,000.00, or \$28,000.00 less than should be present.

For reasons that I am sure you clearly understand, it is necessary that this issue be resolved as quickly as possible.

Let me now discuss the long term commitments in which Mr. Burk participated in our office.

In 1990 Mr. Burk, myself and George Zivkovich executed a Lease Agreement with Towne Square for a primary term of ten years, which expired on December 1, 2000. In 1993, we leased additional space and expanded our occupancy when William G. Powell came to our office. The lease term for the additional space also was structured to terminate on December 1, 2000. By agreement among us, each of us paid one-fourth of the total rent, which is presently \$2,275.00 per month. The rent is subject to a 3% increase each year as provided by the lease agreement. Allowing for these increases, the remaining approximate amount due to Towne Square through the primary term of the lease is \$175,000.00, of which Bob Burk would have been jointly and severally liable, and his one-fourth share being \$43,750.00.

We also have three separate loans for leasehold improvements. One is to Commercial Banking and Trust Company with an amortization period of ten years and scheduled to be paid in full December 1, 2000. The second is to the Parkersburg/Wood County Development Authority amortized based upon a ten year schedule but upon which a balloon payment is due December 1, 1995. Both of these loans were obtained at the time we initially renovated our present offices in September, 1990. When we made the additional renovations in 1993, we obtained an additional loan from Community Bank of Parkersburg, again structured to be paid in full on December 1, 2000.

The current balances of these loans are as follows:

Commercial Bank	\$ 29,465.37
Parkersburg/Wood County Development Authority	\$ 20,625.18
Community Bank	<u>\$ 36,151.25</u>
Total	\$ 86,241.80

Under terms of the note, each of us is jointly and severally liable upon the loans, but by agreement we each agreed to assume one-fourth thereof. Bob's share of these commitments therefore would have been \$21,560.45.

When Bob, George and I originally associated at our new offices in 1990, we discussed what would occur should one of us become permanently disabled or die. We recognize that to simply require the estate of a deceased partner to pay his share of one hundred percent of the long term commitments would operate as a disincentive to the remaining partners to encourage other prospective tenants whose contributions towards the office expenses would offset the share of the estate of the deceased partner.

In February, 1991, I prepared a draft of an agreement which dealt with the event of disability or death in quite specific terms, which incorporated the general concept which we had discussed. Regretfully this agreement was never executed. I have, however enclosed a copy of the same, as it substantially reflects a concept to which Mr. Burk, Mr. Zivkovich and myself had agreed. Obviously additional long term commitments were entered into subsequent to the draft of the agreement when Mr. Powell came to our office.

As you can see, the agreement was structured in such a way that it was intended to balance the hardship to the remaining partners and the family of a deceased partner, by providing for payment of a specified sum to a third party trustee from which the deceased partner's share of long term commitments on a monthly basis would be paid. The draft agreement provided that the maximum term of liability of the estate of the deceased partner would be one-half of the remaining lease term, or two years, whichever was greater. In the event the surviving partners obtained a tenant whose contributions replaced the shares paid by the deceased partner, then the obligation of the trustee to pay such expenses would terminate and the remaining funds in the hands of the trustee would be reimbursed to the estate of the deceased partner.

Although this agreement was never executed, the remaining partners are willing to abide by its general terms. In other words, we would be satisfied if an arrangement could be agreed upon whereby a specified sum would be placed in the hands of a third party trustee to be administered in accordance with a written agreement. This trustee would pay Mr. Burk's share of these long term commitments on a monthly basis for a period of three years (one-half of the remaining lease term), or until a new tenant was obtained, whichever event first occurred.

The total rent and debt service at this time is \$3,770.54. One-fourth of that figure is \$942.64 which, over a period of thirty-

six months, would require the sum of \$33,935.00 to be placed in the hands of a trustee. (Obviously, a slightly less amount discounted for present value could be appropriate since interest would be earned upon the declining balance).

We are not, of course, precluding any other reasonable method of resolving this matter in a way which would be equitable both to us and the estate. I simply provide a copy of the draft agreement and the accompanying financial information as reflective of how the three of us had discussed resolving these issues.

Finally, there are, as I am sure you understand, ongoing office expenses associated with Bob's participation as a partner while he was alive, and the wrap-up of his affairs following his death. For your information, I have enclosed copies of the expense itemizations for the last four months. As you can see, the average contributions towards common office expenses range from \$1,800.00 to \$2,000.00 per month per partner. These common expenses would not have included wages and fringes for his secretary and other office expenses which may not have been common to all partners. Regretfully, there is a balance owed to us from Bob for the month of November, and we would consider it reasonable for an expense contribution to be made for the month of December since many of these expenses were incurred prior to Bob's death, and in consideration of the continued occupancy while business affairs are being concluded.

You also asked about anticipated income. We have not yet progressed to the point of computing accounts receivable. However, for your information, deposits since the death of Mr. Burk have amounted to \$1,835.00, from which his secretary has been paid her usual weekly salary and one \$600.00 contribution was made towards Mr. Burk's November expenses.

All of the foregoing summarizes Mr. Burk's financial commitments to us as they now exist. Should we become aware of any additional information we would, of course, immediately pass that on to you.

We are certainly willing to sit down with you to discuss resolution of these matters at our mutual convenience, although I would again emphasize the urgency of addressing the short-fall in Mr. Burk's Trust Account.

We will look forward to working with you on these matters.

Very truly yours,

C. Blaine Myers

CBM/rds

MD vauls II
8/3/95

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December 23, 1994

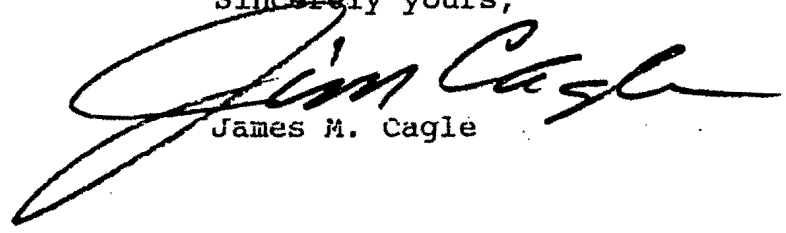
William Powell, Attorney-at-law
Burk, Myers & Zivkovich
Box 287
Parkersburg, West Virginia 26102-0287

RE: Burk Matter

Dear Bill:

I am sorry that I missed your call earlier this week. This is intended to respond to that call as I was in court for the first three days of the week. I have neither forgotten nor ignored the nature of the phone conversation which we had. To make a long story short, it appears that Susan does not now have the ability to address the trust account matter. I thought you deserved to have that response so that you and the other lawyers can make your judgements accordingly. My hope is to first address the equitable distribution, which remains pending, and then we can address claims against the estate.

Sincerely yours,



James M. Cagle

JMC/jh
cc: Susan C. Burk

Movants

III

8/3/95

JOSEPH M. BROWN

Attorney At Law

434 Green Street

Post Office Box 387

Parkersburg, West Virginia 26102-0387

Telephone 304-422-6482

Facsimile 304-485-0560

January 4, 1995

Mr. Jack W. Steers, Trustee
Sheet Metals Union, Local 299
Health and Welfare Fund
3311 Dudley Avenue
Parkersburg, WV 26101

Mr. Jack R. Murray, Trustee
Sheet Metals Union, Local 299
Health and Welfare Fund
3112 7th Street
Parkersburg, WV 26101

Mr. Robert E. Wallbrown, Trustee
Sheet Metals Union, Local 299
Health and Welfare Fund
2228 Willard Road
Parkersburg, WV 26101

Mr. Theodore C. Steed, Jr. Trustee
Sheet Metals Union, Local 299
Health and Welfare Fund
2229 16th St.
Parkersburg, WV 26101

Mr. Roy W. Tice, Trustee
Sheet Metals Union, Local 299
Health and Welfare Fund
3507 Liberty
Parkersburg, WV 26101

Mr. Harry A. Oiler, Jr., Trustee
Sheet Metals Union, Local 299
Health and Welfare Fund
2308 Highland Rd.
Parkersburg, WV 26101

Re: Health and Welfare Insurance Funds

Gentlemen:

I represent C. Blaine Myers, William G. Powell and George Zivkovich, local lawyers practicing in Parkersburg, WV.

COPY

Sheet Metals Union, Local 299
Health and Welfare Fund
January 4, 1995
Page Two

I have been instructed by each of them to contact you concerning the status of the Health and Welfare insurance funds that were in the custody of Mr. Robert W. Burk, Jr. at the time of his untimely death.

Mr. Burk, Mr. Myers and Mr. Zivkovich shared the same office premises from and after September 1, 1990, but did not hold themselves out to the public as a partnership in the practice of law until the spring of 1992. Mr. Powell joined the office on May 1, 1993.

At the outset, I want to make it clear to you, though the four lawyers involved held themselves out to the public, and to you, to be partners in the practice of law, each maintained a separate client base, a separate business account and a separate trust account. No partner had signature power nor any control of the other partner's separate trust account.

Robert W. Burk, Jr. died, testate, a resident of Wood County, West Virginia, on November 20, 1994. Under his Last Will and Testament Susan Burk was nominated and qualified as the Executrix of the Estate of Robert W. Burk Jr., deceased and continues to be the personal representative of the decedent.

It is the duty of the surviving partners to wind down the affairs of the partnership of Burk, Myers, Powell & Zivkovich. Attendant to that duty, the following facts were determined:

a. Under the firm name of Burk and Burk, 315 Market Street, Parkersburg, West Virginia, Robert W. Burk, Jr. opened an IOLTA trust account with the Commercial Banking and Trust Company located at 315 Market Street, Parkersburg, West Virginia. The significance of an IOLTA (Interest on Lawyers Trust Accounts) Trust Account, which was mandated by the West Virginia State Bar in 1989, is that it requires the interest from the account be paid to the West Virginia Bar Foundation, Inc. to support legal programs for the financially disadvantaged.

b. By letter dated April 29, 1992, a check in the amount of \$142,642.00 was forwarded to Mr. Burk, which represented Health and Welfare insurance funds from United of Omaha. This check was endorsed by Jack Steers on behalf of the Trustees of

the Sheet Metal Workers Local 299 Health and Welfare Fund and deposited in the Burk and Burk Trust Account. Mr. Burk and his then secretary, Dottie Midkiff, were the sole signatories upon this account. At Mrs. Midkiff's retirement as a legal secretary, Mr. Burk became the sole signatory on the account.

Sheet Metals Union, Local 299
Health and Welfare Fund
January 4, 1995
Page Three

c. Schedule A attached hereto delineates a history of the deposits and withdrawals from the Burk and Burk Trust Account which history was prepared by and at the direction of Mr. Burk. Some of the payments coincide with authorizations found in the minutes of the meetings of the Board of Trustees, copy of which minutes were found in the file. Minutes authorizing the remainder of the withdrawals were not found. There was a balance of \$114,745.78 after the itemized expenditures.

d. On or about December 5, 1994, while reviewing the current Burk files, C. Blaine Myers discovered a supplemental record to the Local 299 Health and Welfare trust portion of the Burk and Burk Trust Account.

e. The supplemental record shows that in addition to the authorized withdrawals, there were personal advances made to Robert W. Burk:

1. 11/30/93 \$ 9,000.00
(Of this amount \$ 7,692.70 was repaid leaving
an unpaid balance of 1,397.30)
2. 1/24/94 \$ 9,000.00
(Repaid 3/2/94)
3. 1/28/94 \$ 1,000.00
(Repaid 2/23/94)
4. 4/1/94 \$ 1,530.00
(Of this amount \$1,200.00 was repaid as of
10/17/94 leaving an unpaid balance of
\$ 330.00)
5. 4/13/94 \$ 7,000.00
6. 4/94 \$ 32,000.00
(Repaid 6/20/94)
7. 6/16/94 \$ 18,000.00
8. 8/29/94 \$ 1,805.00
9. 10/28/94 \$ 6,000.00

There is a total of personal withdrawals made by Mr. Burk of \$ 34,532.30 which have not been repaid.

Sheet Metals Union, Local 299
Health and Welfare Fund
January 4, 1995
Page Four

f. As of December 26, 1994, there was a balance in the Local 299 portion of the Burk and Burk Trust Account of \$ 81,274.05

g. The difference between the balance of \$ 114,745.78, which is the gross amount received less the authorized expenditures and the present balance of \$ 81,274.05 is \$ 33,470.95.

h. Upon discovery of the above facts, Susan Burk, as Executrix of the Estate of Robert W. Burk, Jr., deceased, and as the decedent's personal representative, was notified of the shortage. As of this date, as the decedent's personal representative, Mrs. Burk has the sole authority to make withdrawals upon this account.

i. By a letter dated December 23, 1994, over the signature of James M. Cagle, Attorney for Mrs. Burk, Mr. William G. Powell was advised that "it appears that Susan does not now have the ability to address the trust account matter."

It is the duty of my clients, C. Blaine Myers, William G. Powell and George Zivkovich to personally notify you of their findings and they have chosen to give you a central person with whom you may communicate, namely, the undersigned. I will be available to answer any questions you might have.

None of my clients have the legal right to make withdrawals upon the Burk and Burk Trust Account. Therefore, it is incumbent upon you to immediately contact Mrs. Burk, as Executrix of the Estate of Robert W. Burk, Jr., deceased, to insure the safety and integrity of the trust funds placed in your hands.

She may be reached at her residence located at 5603 13th Avenue, Vienna, West Virginia, 26105, Telephone 295-0335.

I have been instructed to advise you that all reasonable assistance will be made available to you to substantiate the above outlined facts.

Very truly yours,

Joseph M. Brown

JMB:bjs

cc: C. Blaine Myers
William G. Powell
George Zivkovich
James M. Cagle

Enclosure (1)

HomeA:\BMPZ.NET

**Myers, Powell
& Zivkovich** Attorneys at Law

Movants

TV

315 Market Street
Towne Square Building
P.O. Box 287
Parkersburg, WV 26102-0287

C. Blaine Myers
George Zivkovich
William G. Powell

(304) 485-3600
FAX (304) 485-0667

January 31, 1995

Ms. Susan Burk
5603 13th Avenue
Vienna WV 26105

Dear Susan:

As you have requested, we have conducted an inventory of the office of furniture, equipment, etc., which were owned by Bob, or in which he had an interest at the time of his death. We have had the furniture appraised by John Garrison, and we have used our own estimates for law books and some other miscellaneous items.

The first page of the inventory represents those items which were solely owned by Bob. The second page represents those items which Bob owned jointly with the remaining partners in the office. The appraised value shown is the value of Bob's interest only.

Also enclosed is a breakdown of the expenses paid by Bob through the central Burk, Myers & Zivkovich account from which common expenses were paid. This should be utilized for tax purposes for the 1994 tax year, although you do need to note that other expenses, such as his secretary's salary, etc., which were not common expenses of the firm would have been paid by Bob directly, and are not included on the enclosed list.

If you have any questions concerning any of these items, please feel free to give me a call.

Very truly yours,

C. Blaine Myers

CBM:san

INVENTORY
SOLELY OWNED BY RWB

FURNITURE AND EQUIPMENT

HALLWAY

Narrow table, chairs and painting \$ 200.00

RWB OFFICE

Desk and glass 300.00
Credenza and glass 200.00
Swivel chair 100.00
Guest chairs (2) 160.00
Sofa 175.00
End table/lamp 100.00
Two drawer file 50.00

BURK SECRETARY OFFICE

Desk 225.00
Steno chair 85.00
Credenza 90.00
Table with drawer 50.00
Steno chair #2 70.00
Metal bookcase 80.00
Guest chairs (2) 80.00
Copier 400.00
Copier stand 80.00
Computer/printer (IBM) 500.00
Computer/printer (Packard-needs repairs) 250.00

BURK FILING ROOM

5-drawer lateral files (7) 1,050.00
4-drawer vertical files (6) 450.00
1 blueprint rack 125.00
1 green storage cabinet 125.00

MISCELLANEOUS PAINTINGS

Copy room, 2 in conf. room #2 100.00

LIBRARY/BOOKS

Am Jur 2D, Am Jur Legal Forms 2d, Modern Banking
Forms, Estate Practice and Procedure, Real Estate
Law Digest, WV Blue Books, Federal Guide, Legis-
lative Journals, Set of 8 Small Books 750.00

Sub-total Page 1 \$5,595.00

ITEMS JOINTLY OWNED BY RWB
(1/4 INTEREST UNLESS OTHERWISE NOTED)

RECEPTION AREA

Desk	90.00
Secretary chair	20.00
Computer	75.00
Chairs (4)	125.00
Table	25.00
Painting	50.00
Coat Hanger	10.00

CONFERENCE ROOM #1

Conference table and chairs	160.00
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COPY ROOM

Television	40.00
Stereo	25.00
Copier	500.00

CONFERENCE ROOM #2

Round Table and Lamp (1/3)	60.00
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KITCHEN

Microwave (1/3)	50.00
Refrigerator (1/3)*	50.00

*Purchased by firm from RWB in 1990

CLERICAL AREA

Fax machine	200.00
-------------	--------

Sub-total Page 2	<u>\$1,480.00</u>
------------------	-------------------

TOTAL ALL ITEMS	<u>\$7,075.00</u>
-----------------	-------------------

**Myers, Powell
& Zivkovich** Attorneys at Law

C. Blaine Myers
George Zivkovich
William G. Powell

Morales V

8/3/95

315 Market Street
Towne Square Building
P.O. Box 287
Parkersburg, WV 26102-0287

(304) 485-3600
FAX (304) 485-0667

May 16, 1995

Susan Burk
5613 13th Avenue
Vienna, WV 26105

Dear Susan:

Usually one or the other of us is quite busy when we cross paths in the office, and I thought it appropriate to write to you concerning a couple of matters.

As you will recall, we briefly discussed disposition of Bob's client files. It was my recommendation that client files five years old or less remain stored at this location in the event any former clients would seek information from their files, as from time to time occurs. As Bob's former partners, we feel some professional responsibility to keep those files available. This recommendation is not binding upon you, as you have the legal authority to remove these files and cabinets if you so desire, but should you decide to remove them to another location it would be necessary to refer any such former clients to you with regard to retrieving their files. If you choose to leave those files at this location we will, of course, not in any way dispose of them or the cabinets in which they are located without the prior consent of you or the estate.

With respect to the real estate abstract files, we must insist that these remain at this location for the time being. As you are aware, the substantial majority of these files are derivative from the law firm of Burk and Bayley, and I have been informed by former members of that firm that an agreement was in effect that they would have access to these files as desired, and it is further my belief and understanding that they claim a proprietary interest in the same. In fact, Tom Zimmerman and others have from time to time used and been given free access to these files for that purpose.

There are also, as you know, a number of furnishings and other tangible personal property which was acquired by us during our association with Bob, and in which Bob had a fractional ownership interest. All of these items were listed upon the inventory I previously provided to you, and if I recall all of them had

es assigned based upon an appraisal or our own estimate of
e value of law books. With respect to these items, we would
ke to acquire Bob's interest in these jointly owned items and
law books which he may have solely owned at a value as reflected
upon the inventory, with the total purchase price to be an offset
against the sums owed by the estate to our office.

The gentlemen came by our office today to remove the blinds from
the offices formerly occupied by Bob and Dottie. We were
informed they were to be delivered to the Salvation Army.
Although we recognize that these window coverings were paid for
solely by Bob, they still do, as I am sure you recognize, have a
significant value. You are also aware that the estate is
indebted to our office and other creditors in significant
amounts. Under those circumstances, property of any significant
value should not be donated to charity. We have therefore not
permitted these items to be removed at this time.

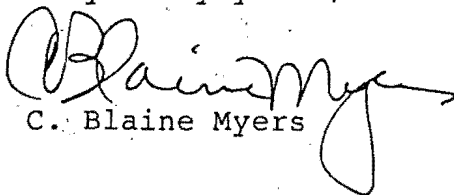
Another matter that needs to be addressed is the status of the
funds in the trust account. We understand that demand has been
made upon you for payment but we are not aware that payment has
been made. We strongly believe that payment of all funds
identifiable as property of the union should be made by the
estate immediately. Payment would both limit the potential
liability on the principal and reduce the amount of principal on
which interest may be accrued.

Finally, we would ask that arrangements be made to remove the
remaining items of personal property solely owned by Bob still
located upon the premises, except of course the recent client
files and the abstract files noted above. You may have access to
our office for that purpose during normal business hours, or by
other arrangements mutually agreed upon in advance.

Please confirm when you expect the remaining such items would be
removed from the premises.

Thank you for your anticipated cooperation, and give me a call if
you have any questions or comments.

Very truly yours,


C. Blaine Myers

CBM/rds

ROBERT W. BURK, JR. DECEASED

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APPRAISEMENT OF THE ESTATE



PART I: GENERAL INFORMATION QUESTIONNAIRE

TAX DIVISION USE ONLY

A. Decedent's Name Robert W. Burk, Jr.		B. Social Security Number [REDACTED]	C. Date of Death 11/20/94
D. Decedent's Residence at Death Vienna		E. State West Virginia	F. County Wood
G. Marital Status at Death Married <input checked="" type="checkbox"/> Single, Widow(er) or Divorced <input type="checkbox"/>		H. West Virginia Counties Where Decedent Held Real Estate Wood, Pleasants	
I. Will this estate be required to file a Federal Estate Tax Return (see the instructions on page 3)?		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
J. Did the decedent leave a WILL (attach a copy of the will to the appraisal)?		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
K. Fiduciary's Name and Mailing Address (include zip code) Susan C. Burk 5603 - 13th Avenue Vienna, West Virginia 26105 Fiduciary's Phone Number 304-295-0335		L. Preparer's Name and Address Joseph P. Albright Albright, Bradley & Ellison Post Office Box 1885 (101 Third Street) Parkersburg, West Virginia 26102 Preparer's Phone Number 304-424-5163 CPA <input type="checkbox"/> Attorney <input checked="" type="checkbox"/>	

PART 2: SUMMARY OF NONPROBATE ASSETS

Answer each of the following questions concerning the decedent's NONPROBATE assets.
 If you answer "YES" to any question below, attach a statement to this form which shows:

- a. the type of transfer(s) with reference to the question number below;
- b. names of the person(s) to whom the property is transferred and/or co-owners of jointly held property;
- c. blood relationship (to the decedent) of ALL above named persons;
- d. market value at the date of death of any property transferred; and
- e. description and assessed value of any real estate transferred or jointly held.

				MARKET VALUE	
1.	Did the decedent possess any powers of appointment?.....	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	1	
2.	Did the decedent make transfers without adequate consideration within three years prior to date?.....	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	2	
3.	Did the decedent make any transfers at any time of property in which he retained the right of use and enjoyment?.....	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	3	
4.	* Did the decedent own any stocks, bonds, bank accounts, certificates of deposit or other personal property as a joint tenant with the right of survivorship?.....	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	4	8,000.92
5.	* Did the decedent own any real estate as a joint tenant with the right of survivorship?....	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	5	57,093.77
6.	Did the decedent own any annuities?.....	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	6	
7.	Did the decedent create any inter vivos trust arrangements?.....	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	7	
8.	Did the decedent own any property which was payable on death to others?.....	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	8	
9.	* Show the total value of life insurance to named beneficiaries.....			9	40,000.00
TOTAL VALUE OF NONPROBATE ASSETS (add lines 1 through 9 above)					\$105,094.69

*See attachment

PART 3: SUMMARY OF PROBATE ASSETS

Complete PART 4 first. Enter the total from each schedule of PART 4 on the appropriate line below.

		MARKET VALUE	
1.	Schedule A: Real estate or any interest therein.....	1	6,180.00
2.	Schedule B: Tangible personal property of every kind.....	2	25,975.00
3.	Schedule C: Government bonds and securities of every kind.....	3	3,500.00
4.	Schedule D: Shares of corporate stock of every kind.....	4	60,843.50
5.	Schedule E: Money, certificates of deposit, notes, accounts, etc.....	5	517,153.03
6.	Schedule F: All other assets not hereinbefore mentioned.....	6	127,932.76
TOTAL VALUE OF PROBATE ASSETS (add lines 1 through 6 above)			\$741,584.29

6/3/05

PART 4: INVENTORY OF PROBATE ASSETS - TRANSFERS BY WILL OR INTESTACY

After completing PART 4, enter the total from each schedule on the appropriate line in Part 3.

SCHEDULE A: Describe any real estate or any interest in real estate. Do not extend values of out of state property. See page 4 of the instructions.	ASSESSED VALUE	APPRAISED VALUE
See attachment.		
TOTAL (enter the total appraised value on PART 3, line 1)		\$ 6,180.00

SCHEDULE B: Tangible personal property of every kind. See page 4 of the instructions.	APPRAISED VALUE
See attachment.	
TOTAL (enter the total appraised value on PART 3, line 2)	\$ 25,975.00

SCHEDULE C: Bonds and securities of every kind. See page 4 of the instructions.	APPRAISED VALUE
See attachment.	
TOTAL (enter the total appraised value on PART 3, line 3)	\$ 3,500.00

PART 4 (continued)

SCHEDULE D: Corporate Stock of any kind. See page 4 of the instructions.

NAME OF THE COMPANY	CLOSELY HELD	NUMBER OF SHARES	MARKET VALUE PER SHARE	TOTAL MARKET VALUE
See attachment.				
TOTAL (enter the total market value on line 4 of PART 3).				\$ 60,843.50

SCHEDULE E: Money, bank accounts, certificates of deposits, notes, accounts receivable. Show dates of notes, etc. See page 4 of the instructions.	APPRAISED VALUE
See attachment.	
TOTAL (enter the appraised value on line 5 of PART 3).	\$517,153.03

SCHEDULE F: All other assets, not hereinbefore mentioned, including insurance payable to the estate. See page 4 of the instructions.	APPRAISED VALUE
See attachment.	
TOTAL (enter the appraised value on line 6 of PART 3).	\$127,932.76

PART 5: BENEFICIARIES. List the names and relationships of all beneficiaries or heirs of the estate.

Show the age of any life tenant after their name. See page 4 of the instructions.

BENEFICIARY OR HEIR	RELATIONSHIP	BENEFICIARY OR HEIR	RELATIONSHIP
Susan C. Burk	Wife		
Robert W. Burk, III	Son		
Eric L. Burk	Son		
Christopher B. Burk	Son		
Commercial Banking & Trust Co.	See note on attachment.		

PART 6: OATH OF FIDUCIARY

County of Wood, To-wit:

I, Susan C. Burk, fiduciary for the estate of Robert W. Burk, Jr.
 after diligent effort to ascertain the taxable property of this estate, I have made answers to each of the questions and have completed, in detail, the schedules for each category of property and believe each item thereof to be correct. I thereby believe the foregoing to be the true and lawful appraisal of ALL the assets of the estate of the above-named decedent.

Susan C. Burk
Fiduciary

OFFICIAL SEAL
 NOTARY PUBLIC, STATE OF WEST VIRGINIA
 Mary C. Moody
 Rt. 1, Box 110
 St. Marys, W. Va. 26170
 My Commission Expires: December 30, 1997

Subscribed and sworn to before me this 1st day of August, 1995

Mary C. Moody
Notary Public

My Commission expires December 30, 1997

PART 7: APPROVAL OF FIDUCIARY COMMISSIONER/FIDUCIARY SUPERVISOR

I, _____, Fiduciary Commissioner/Fiduciary Supervisor of WOOD County, West Virginia, to whom the estate of the above named decedent was referred, do hereby approve the foregoing appraisal of such estate.

Given under my hand this 7th day of August, 1995

Ernest M. Boyless
Fiduciary Commissioner/Fiduciary Supervisor

PART 8: CLERK OF THE COUNTY COMMISSION

STATE OF WEST VIRGINIA

COUNTY OF Wood, To-wit:

In the Clerk's office of Wood County on the 8th day of August, 1995
 the foregoing appraisal of the above-named decedent was presented and upon motion admitted to record.

Attest Jamie Six, Clerk
 By Brenda Lambert, Deputy

Estate of Robert W. Burk, Jr.
Wood County, West Virginia

Part 2: Summary of Nonprobate Assets

4. Stocks, bonds, bank accounts, etc., held jointly with right of survivorship:

Savings Account, Commercial Banking & Trust, with Susan C. Burk, Wife \$ 175.92

Income Tax refunds for 1994:

Federal refund due	\$8,852.00		
State tax due	<u>1,027.00</u>	<u>7,825.00</u>	\$ 8,000.92

5. Real Estate held jointly with right of survivorship:

Undivided 1/2 interest in condominium, owned jointly with rights of survivorship with Susan C. Burk, wife, located at Kiawah Island, S.C. \$63,093.77
Less: Maintenance costs 6,000.00 57,093.77

9. Life insurance to named beneficiaries*:

United Companies, Policy # 31830911
Face 40,000.00

Total Nonprobate Assets \$105,094.69

[*Note: If the trust is valid, then the entire amount of the insurance in Part 4, Schedule F, was payable to named beneficiaries.]

Part 4: Inventory of Probate Assets - Transfers by Will or Intestacy

SCHEDULE A: REAL ESTATE

	<u>Assessed Value</u>	<u>Appraised Value</u>
Undivided interests, M. L. Simonton Family OGM interests, Pleasants County, West Virginia		\$ 5,000.00

3. Desk Chair mat (front).
4. Robert W. Burk and Burk and Bayley files and real estate title records (including all contents of RWB file room, files, 2nd floor, Towne Square, files at Commercial Bank.)
5. American Jurisprudence, American Jurisprudence 2nd, Michie's West Virginia Code, and miscellaneous books now undetermined, but including a legislative library.
6. Miscellaneous office items, including a coffee carafe, coffee table, airplane picture (shelf area, hallway).
7. Contents of offices: Personal: Bookcase, credenza, file cabinet and contents, sofa, chair, lamp, table, coat rack, pictures, decorations, desk mat, chairs. Secretarial: 4 chairs, copier, two computer systems, credenza, desk, cabinet, clock, chair pad and miscellaneous furnishings.
8. Office telephone system.
9. Carpet, blinds and other window treatments.

[Note #1: Valuations may require amendment.]
 [Note #2: * = Actual or constructive possession not yet recovered by fiduciary except for a few of the listed office furnishings or other items.]

Total, Tangible Personal Property: \$ 25,975.00

SCHEDULE C: BONDS AND SECURITIES

2 Units, Municipal Investment & Trust Fund Series 1M, Certificate # SFU 1M5159	\$ 2,000.00
Parkersburg Country Club, membership bond	<u>1,500.00</u>
Total, Bonds and Securities	<u>\$ 3,500.00</u>

SCHEDULE D: CORPORATE STOCK

<u>Name of Company</u>	<u>Number of Shares</u>	<u>Value per Share</u>	<u>Total Market Value</u>
National Education Corporation	100	\$5.00	\$ 500.00
United Bancshares, Inc., West Virginia	220	27.00	5,940.00

<u>Name of Company</u>	<u>Number of Shares</u>	<u>Value per Share</u>	<u>Total Market Value</u>
Commercial Bancshares, Inc, West Virginia	1,752	23.97	42,000.00
One Valley Bancorp, West Virginia	228	30.00	6,840.00
Pleasants County Bank	60	90.00	5,400.00
Parker Drilling Company	25	6.50	162.50
Barry Fleming, Inc.	2.5	N/A	<u>1.00</u>
Total Corporate Stock			\$60,843.50

SCHEDULE E: MONEY, BANK ACCOUNTS, ETC.

*Unsecured account receivable for deferred compensation as director of Commercial Banking & Trust Company, under agreement of January 10, 1986 to 1991 (\$1,577.57 x 120=):		\$189,308.40
*Undivided 1/3 interest, Workers' compensation deposit, Burk, Myers and Zivkovich		500.00
*Individual Retirement Account # 68-0084-00 Commercial Banking & Trust Company		5,270.69
HR 10--Keough Retirement Plan:		
Market value inventory of assets:	\$241,360.83	
<u>Less:</u> Cash value of Mass. Mutual Life Insurance Policy # 5980820:	<u>23,068.00</u>	
Net	\$218,292.83	
Payout of Mass. Mutual Policy # 5980820	<u>101,403.66</u>	
Total market value:		319,696.49
Checking account, Commercial Bank		800.00
Receivable, Mountain State College		1,136.57
*Receivables for legal services paid to Myers, Zivkovich & Powell		undetermined
Credit balance, Lawyers Cooperative Publishing		<u>440.88</u>
Total, Money, Bank Accounts, Etc.		<u>\$517,153.03</u>

[Note #1: Valuations may require amendment.]

[Note #2: * = Actual or constructive possession not yet recovered by fiduciary.]

SCHEDULE F: ALL OTHER ASSETS

Ohio State Life Insurance, Policy # 01121130; Face: \$5,000.00	\$	1.00
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(T)	Massachusetts Mutual Insurance Co., Policy # 6420592:		
	Face:	\$107,594.00	
	Dividend	420.25	
	Interest	526.36	
	Premium Return	153.40	
	Less: Policy loan	19,882.12	
	Accrued interest	657.50	
	Pledge loan	<u>18,795.00</u>	69,359.39
(T)	New York Life, Policy # 20249639		
	Face:	\$ 1,613.00	
	Dividend	34.54	
	Less: Policy loan	554.00	
	Accrued Interest	<u>10.47</u>	1,083.07
(T)	New York Life, Policy # 26700471		
	Face:	\$ 10,000.00	
	Dividend	337.90	
	Less: Policy loan	3,119.73	
	Accrued Interest	<u>68.81</u>	7,149.36
(T)	The New England, Policy # 34 16 229:		
	Face:	\$ 10,000.00	
	Dividend	194.82	
	Return Premium	86.03	
	Less: Policy loan	2,397.18	
	Accrued Interest	<u>85.90</u>	7,797.77
(T)	Transamerica Occidental Life, Policy # 5706355:		
	Face:	\$ 25,000.00	
	Dividend	49.50	
	Return premium	168.92	
	Less: Policy loan	1,903.85	
	Accrued Interest	<u>24.75</u>	23,289.82
(T)	Occidental Life, Policy # 5266805:		
	Face:	\$ 10,000.00	
	Accumulated Dividend	19.25	
	Less: Policy loan	<u>1,465.72</u>	8,553.53
(T)	Commonwealth Life, Policy # 359701		
	Face:	\$ 10,000.00	
	Accrued Interest	126.01	
	Return Premium	31.16	
	Less: Policy loan	<u>4,626.18</u>	5,530.99
(T)	Northwestern Life, Policy # 5782113:		
	Face:	\$ 7,000.00	
	Accumulated Dividend	19.36	
	Post mortem Dividend	126.02	
	Premium return	11.21	

Dividend Interest	22.15	
Less: Policy loan	1,973.19	
Accrued Interest	<u>38.72</u>	5,166.83

* Living Trust, dated January 4, 1972, amended February 24, 1982; Commercial Banking & Trust Company, Trustee, if valid		1.00
* The New England, Policy # 17-51-795: Policy not located, value not known, if any.		<u>0.00</u>

Total, All Other Assets \$127,932.76

[Note #1: Valuations may require amendment.]
 [Note #2: * = Actual or constructive possession
 not yet recovered by fiduciary.]
 [Note #3: T = Payable to Living Trust at
 Commercial Banking & Trust Company, if valid.]

Total Probate Assets \$741,584.29

Part 5: Beneficiaries

Commercial Banking & Trust Co. as Trustee of the Living Trust Agreement dated the 4th day of January, 1972, and amended the 24th day of March, 1982, if the same be valid.

Other Assets Not Subject to Probate:

The decedent was in possession of certain trust funds at the time of his death which have come into the constructive possession of the fiduciary. The estate and its beneficiaries have no equitable interest in such funds. The fiduciary holds bare legal title thereto and the same will be transferred to the beneficial owners thereof promptly upon the determination of the beneficial owners.