



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

Fairfax County Courthouse
4110 Chain Bridge Road
Fairfax, Virginia 22030-4009

703-246-2221 • Fax: 703-246-5496 • TDD: 703-352-4139

DENNIS J. SMITH, CHIEF JUDGE
JANE MARUM ROUSH
RANDY I. BELLOWS
BRUCE D. WHITE
ROBERT J. SMITH
DAVID S. SCHELL
JAN L. BRODIE
LORRAINE NORDLUND
BRETT A. KASSABIAN
MICHAEL F. DEVINE
JOHN M. TRAN
GRACE BURKE CARROLL
DANIEL E. ORTIZ
JUDGES

COUNTY OF FAIRFAX

CITY OF FAIRFAX

BARNARD F. JENNINGS
THOMAS A. FORTKORT
RICHARD J. JAMBORSKY
JACK B. STEVENS
J. HOWE BROWN
F. BRUCE BACH
M. LANGHORNE KEITH
ARTHUR B. VIEREGG
KATHLEEN H. MACKAY
ROBERT W. WOOLDRIDGE, JR.
MICHAEL P. McWEENY
GAYLORD L. FINCH, JR.
STANLEY P. KLEIN
LESLIE M. ALDEN
MARCUS D. WILLIAMS
JONATHAN C. THACHER
CHARLES J. MAXFIELD
RETIRED JUDGES

March 18, 2015

J. Warren Tomlin, Esq.
TOMLIN LAW, PLLC
6052 Providence Road, Suite 203
Virginia Beach, Virginia 23464

Re: In re Tinsley,
Case No. CL-2015-2843

Dear Mr. Tomlin:

I received your Motion for Entry of Order and the corresponding draft order in this case. For the following reasons, I will deny your motion without prejudice.

As I understand the facts, this case originated from a foreclosure action in December 2002 of real property owned by Hermione and Philip Tinsley, Jr. After the foreclosure, there were excess proceeds in the amount of \$293,208.84. Mr. and Mrs. Tinsley were entitled to the excess proceeds of the foreclosure sale. The couple could not agree on how the money was to be paid out and an interpleader action was filed.

An order was entered on April 27, 2004 allowing the funds to be interpleaded to this court. Philip Tinsley, Jr. died on March 10, 2005. An order from Stafford County Circuit Court found that he had only two known heirs, Philip Tinsley III and Hermione Tinsley. Hermione Tinsley died on February 19, 2006. By order dated October 24, 2014, the money being held by the Circuit Court was moved to the State Treasury pursuant to Code § 55-210.12. The present motion was filed February 26, 2015.

OPINION LETTER

Mr. Tomlin

In re: Tinsley, CL-2015-2843

March 18, 2015

Page 2

Resolution of your motion involves several interrelated provisions of the Code of Virginia:

Code § 8.01-602 provides, in pertinent part: "Whenever any money has remained payable or distributable for one year in the custody or under the control of any court of this Commonwealth without anyone known to the court claiming the same . . . the court shall cause such money to be reported and then remitted to the State Treasurer."

Code § 8.01-605 states that "[m]oney paid into the state treasury under the provisions of this article shall be accounted for and disbursed under the procedures provided for in Article 4 of Chapter 11.1 of Title 55 (Code § 55-210.12 et seq.)."

Code § 55-210.20 provides that "[a]ny person claiming an interest in any property delivered to the Commonwealth under this chapter may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the State Treasurer."

Finally, Code § 55-210.21 specifies how funds paid into the State Treasury may be recovered:

- A. The State Treasurer shall consider any claim for property held by the State Treasurer pursuant to the provisions of this chapter that is filed under this chapter and may hold a hearing and receive evidence concerning such claim. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.
- B. If the claim is allowed, the State Treasurer shall make payment forthwith. The State Treasurer is authorized to deduct from the claim the costs for notices, sales, and other related incurred expenses.

In light of this statutory authority, it appears that the Circuit Court is not the appropriate forum to petition for the return of the interpleaded funds.

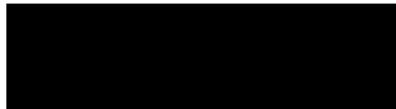
OPINION LETTER

Mr. Tomlin
In re: Tinsley, CL-2015-2843
March 18, 2015
Page 3

Conclusion

For these reasons stated in this letter, petitioner's request for Entry of an Order is denied without prejudice to being renewed in the proper forum. I have entered an order reflecting this ruling.

Sincerely,

A solid black rectangular box redacting the signature of Jane Marum Roush.

Jane Marum Roush

OPINION LETTER

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF FAIRFAX

In re **Tinsley, Philip &**)
 Hermione) Case No. CL-2015-2843

FINAL ORDER

THIS MATTER is before the court on the Motion for Entry of Order filed by Rapid Asset Recovery, LLC, as assignee of Philip Tinsley, III. For the reasons stated in the court's opinion letter of this date, the motion is hereby DENIED, without prejudice to being renewed in the proper forum.

THIS MATTER is ended.

ENTERED this 18th day of March, 2015.


Jane Marum Roush
Judge

Signature of Counsel of Record Waived Pursuant to Rule 1:13