

Focus

Focus on Accotink

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

March 15, 1991

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150



Dear Mr. O'Connell,

Subsequent to our telephone conversation this morning, I reviewed my files in the cases involving Mrs. O'Connell.

I find that I did indeed mail you a copy of the Limited Power of Attorney along with my letter to you of September 12, 1988. I am enclosing another copy of the Limited Power of Attorney and a copy of the letter I sent you. You may not have received it; however, it was not returned to me by the Post Office.

In regard to your inquiry as to why, in 1988, there came a time when I refused to deal with you on the sale, as I said, I recalled that a conceivably adverse relationship had developed between you and your mother concerning the sale. I call your attention to the sixth paragraph in your letter to her of December 8, 1987, a copy of which is enclosed.

As to your complaint that I did not share the sale documents with you, I call your attention to my letter to you of April 16, 1988 in which the deed, note and trust were sent to you. A copy of that letter is enclosed.

On April 19, 1988 you appeared in my office and stated that you refused to settle on the next day. We did not have a happy discourse. We did discuss the sale and I asked you if you had any other questions.

I am somewhat puzzled as to why all of this is re-surfacing and after reviewing my file and my notes, am not at all comfortable with continuing the dialogue.

Sincerely,

A handwritten signature in black ink, appearing to read "EJW", written over the typed name "Edward J. White".

Edward J. White

EJW/e

Encl.

Copy to: Mrs. O'Connell

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

February 18, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Re: Estate of Jean M. O'Connell

Dear Mr. O'Connell,

In order to prepare your mother's 1991 income tax returns, I need the amount that the Harold O'Connell Trust paid her during 1991. In the event the payment was not made in 1991, I will need to file the amount which was due as "income with respect to a decedent" on the estate tax and fiduciary tax returns. The cutoff date for your computation will be September 15, 1991. After that date the trust technically terminated, and the income belongs to the beneficiaries of that trust.

Jean and I are making progress on the estate. We have decided to leave the A. G. Edwards accounts in place since they are earning a better rate of return than a bank can give.

I am trying to get to the bottom of the car problem with Sovran and should be able to get the title soon so that it can be transferred to you before the insurance expires.

Jean has informed me that you and your sisters have decided that it is best to try and list the Accotink property at its actual value as of the of death rather than a higher value based on its future value. Since you have worked so diligently on this problem in the past, could you give me the name of an appraiser who could do a valuation which will take into account all of the county inspired problems. It seems to me that the county value of \$600,000.00 is too high based on the hurdles you have run into in trying to develop it.

Could you also send me the address of Lynch Properties?

Sincerely,



Edward J. White

EJW/e
Copy to: Jean M. Nader

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
—
TELEPHONE 836-5444

April 22, 1992

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Re: Disbursement

Dear Jean,

Enclosed is an agreement which should satisfy Tony as to the car. It cannot be any clearer.

Also enclosed is a preliminary analysis of the estate tax, which should be close to being accurate. I do need to check with Jo Ann Barnes as to a technical question as to whether or not any of your father's trust comes into this. I do not think it does, but there have been many changes in the law since that trust was established. I will have to ask her to bill us for that advice and any other technical tax matters I am not comfortable with. I can do most of the rest of the tax work and save the estate some money.

The executors' commission shown on the analysis is not figured on the value of the realty; however it does not include the 5% commission on the receipts of the estate in addition to the inventory.

In order to file that return and the subsequent Fiduciary Income tax return we will need an accounting from Tony from the date of his last accounting to the date of death. If he does not want to prepare it, I will not agree to any preliminary disbursement to him at all, and will seek your approval to file suit against him to compel the accounting, plus damages to the estate for his delay. Since that trust terminated on your mother's death, his final accounting is due now and not in October.

There will be no further explanations or written entreaties to him as far as I am concerned. He has the duty and he will perform it under a court order if necessary. Of course he will furnish that receipt.

The preliminary analysis contains three alternatives on Accotink at the bottom for your consideration.

In the event that we do seek a reduction in the assessment Tony will be given written notice that his prompt cooperation is necessary and that if he fails to cooperate that he is aware of the

adverse consequences to the estate and is responsible for them.

As far as further steps are concerned, we have a lot to do. No gift tax returns were filed for 1989 and 1991 which will have to be done. The results of those gifts are factored in under "Unified Credit used for gifts 9,784".

The paper trail in the court and IRS is as follows:

File Estate tax by June 15, 1992
File First Accounting (16 months after qualification but can be sooner)
Ask for posting of Debts and Demands against the estate.
File Fiduciary Income tax returns for period 9/15/91-9/15/92, due January 1, 1993.
File Motion for a Show Cause why distribution should not be made. Submit Show Cause Order.
Request Executor's exoneration letter from IRS and Virginia.
Obtain closing letter from IRS and Virginia as to estate tax returns.
File 1993 Fiduciary tax returns (Sept. 1992-distribution)
File for Order allowing distribution.
Distribute estate.
File Final Accounting.

Normally distribution is withheld until the Order of Distribution is entered. As I indicated the creditors have one year to press claims against the estate. No prudent executor will distribute before that period, the entry of the Order of Distribution and the receipt of the tax closing letters.

Sincerely


Edward J. White

EJW/e
Encl.

SH. NOTES. STOCKS & BONDS

ck Wash Gas Light Co. 8/1/91	105.00
ck Signet 8/5/91	39.60
ck A. G. Edwards 8/15/91	2,346.63
ck Kemper Mun Bond Fund 4/30/91	162.86
ck Kemper Mun Bond Fund 5/31/91	162.86
ck Kemper Mun Bond Fund 7/31/91	162.86
ck Kemper Mun Bond Fund 8/30/91	162.86
Ck Nuveen Fund 3/1/91	63.00
Ck Nuveen Fund 5/1/91	63.00
ck Nuveen Fund 6/3/91	63.00
ck Nuveen Fund 8/1/91	66.50
ck Nuveen Fund 9/3/91	66.50
ck American Funds 9/9/91	424.76
Sovran Bank #4536-2785	3,310.46
First Virginia Bank #4076-1509	22,812.52
Fx Co. Ind Dev Bond	109,587.00
Franklin Va. Fund 4556.001 sh	50,507.84
Investment Co. of America 3861.447 sh	65,663.91
Kemper Mun Bond Fund 2961.152 sh	30,396.23
Nuveen Premium Inc Mun Fund 700 sh	6,450.50
Washington Gas Light Co. 200 sh	6,375.00
Signet Banking Corp 198 sh	4,331.25
Lynch Properties note	518,903.26
Travelers Check	20.00
1988 Plymouth Van	8,000.00
Am Funds 5/10/91	326.60
USAA Subscriber savings acct	25.10
SUB TOTAL	830,599.10

OTHER ASSETS

1990 Virginia Tax refund	1,605.53
Debt from Harold O'Connell Trust	659.97
Blue Cross refund	88.78
SUB TOTAL	2,354.33

JOINT ASSETS

Hallmark Bank #1107849600	40,796.81
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REAL ESTATE

15 acres Fairfax Co. Va. 53.9006% interest	323,403.60
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TOTAL ASSETS

1,197,153.84

DEBTS

Colonial Emerg Phys (med bill)	10.40
Fairfax Circ Ct. letters	14.00
Jean M. Nader probate tax reimb	1,269.00
Sovran Bank Car loan payoff	1,364.97
Checks	15.89
Commissioner of accounts Inventory	61.00
IRS 1991 1040 return	15,332.00
Va. Dept Tax 1991 return	2,856.00
Jean M. Nader, bills pd	8,559.00
Sheila Ann O'Connell-Shevenell, cem bill	475.00
Co-Executors' Commission	41,529.96
Commissioner of Accounts fee for Accounting	1,048.25

TOTAL DEBTS AND EXPENSES

72,535.46

Unknown Document

TAX COMPUTATION

GROSS ESTATE	1,197,153.84		
DEBTS & EXPENSES	72,535.46		

TAXABLE ESTATE	1,124,618.38	1,043,767.48	995,256.94
			<i>3 1/2% BRACKET</i>
TENTATIVE TAX 41% bracket	396,893.53	363,744.67	343,950.21
Unified Credit before gift comp	192,800		
Unified Credit used for gifts	9,784		
UNIFIED CREDIT	183,016.00	183,016.00	183,016.00
CREDIT FOR VIRGINIA TAX	40,375.58	35,201.12	32,934.39
NET FEDERAL TAX	173,501.96	145,527.55	127,999.82
VIRGINIA TAX	40,375.58	35,201.12	32,934.39
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TOTAL ESTATE TAXES	213,877.53	180,728.67	160,934.21

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 836-5444

May 4, 1992

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Dear Jean,

Enclosed is the form for appealing the tax assessment of the Accotink property. On page 2, it states that there is a June 1 deadline. I do not think we can make a claim of a lesser value on the estate tax return if we do not file an appeal with the county. To fail to do appeal it would hurt our argument with the IRS.

The summary of the estate tax computation and the interplay of the gift tax is as follows:

1. In computing the estate tax, the gross estate (which includes anything which passes due to death whether in the probate estate or not) is figured, the debts subtracted and the "taxable estate" is ascertained.
2. The tax is then computed on the taxable estate. From this figure is subtracted a "unified credit" of \$192,800 (equivalent to a taxable estate of \$600,000).
3. Lifetime gifts in excess of \$10,000 to any one individual are taxable at the estate/gift tax rates. Each year the donor should have filed a gift tax return, though no tax is due unless the entire \$192,800 credit has been used in making the gifts.
4. Each gift over \$10,000 uses a portion of the unified credit, thus reducing the amount of that credit available to apply to the estate tax.

In our case the lifetime gifts used up \$9784.00 of the available credit. A list of the gifts is enclosed. Returns for 1989 and 1991 must be filed. As fiduciaries we must certify to the IRS that the return is true and correct. We have personal liability in that regard. If we have knowledge of a gift to Tony of \$15,000, we must report it. Tony is going to have to answer that question before we can be satisfied. If he claims he did not receive the money, he will have to supply us with an affidavit to that effect.

As far as the management of an estate undergoing the probate process is concerned, the Executors are entitled to some latitude

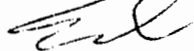
Page 2
Ltr to Mrs. Jean M. Nader
May 4, 1992

within the confines of their fiduciary duty. The decisions about the estate are theirs.

My personal operational mode in these matters is to keep the heirs fully supplied with the paperwork of the estate, and consult with them fully as to strategic and long range issues, such as the valuation of property in the Accotink situation. The day to day matters and the justification for tactical positions taken such as the contents of forms and accountings are the prerogative of the Executors and subject to the scrutiny and approval of the Commissioner of Accounts or the taxing authorities only.

With regard to the filing of the income tax return, my file indicates that I received a fax copy of the K-1 from the Harold O'Connell Trust on April 9, 1992, only six days before the tax return was due.

Sincerely,



Edward J. White

EJW/e
Encl.

APPLICATION FOR REVISION OF REAL PROPERTY ASSESSMENT

There is no Deadline for Filing this Application 1992.05.07

Use separate application for each parcel
Form must be signed to initiate Appeal
See back for instructions

attachment 1
part 1 of 4

COUNTY OF FAIRFAX, VA.
OFFICE OF ASSESSMENTS
REAL ESTATE DIVISION
SUITE 251
12000 GOVERNMENT CENTER PKY
FAIRFAX VIRGINIA 22035-0027
(703) 222-8234

Map Reference #

90-41-1-1001-17

Owner(s): <u>Sean W O'Connell - NADER - 1/3 owner</u>		
Property Address: <u>15 ACRES ACCOTINK AREA</u>		
		Zip:
Mailing Address: <u>350 4th AVE</u>		
City: <u>NEW KENSINGTON</u>	State: <u>P.A.</u>	Zip: <u>15068</u>

Reason for Review: (Circle all that apply)		
<input type="checkbox"/> A. Not Uniform	<input checked="" type="checkbox"/> B. Over-Valuation	<input checked="" type="checkbox"/> C. Unusual Conditions
* If either A or B were circled, the Comparable Properties page must be completed.		

Property Information:		
Property Type: (Circle one only)		
A. Single Family Dwelling	E. Multifamily Condominium	I. Shopping Center
B. Townhouse	F. Office Condominium	<input checked="" type="checkbox"/> J. Vacant Land
C. Apartment Building	G. Office Building	K. Other (specify) _____
D. Duplex	? H. Industrial	
Assessment Information:	Purchase Information:	
Year: <u>1992</u>	(If purchased within the past 4 years)	
Land Value \$ <u>600,000.00</u>	Year Purchased: _____	
Improvement Value \$ _____	Purchase Price: \$ _____	
Total Value \$ <u>600,000.00</u>		
What do you estimate the current fair market value as of January 1? \$ _____		

Structure Information: (Residential only)	
Total Number of Rooms: (include Basement; exclude baths)	Number of Full Baths:
Number of Bedrooms:	Number of Half Baths:
% Basement Finished:	Number of Fireplaces:
Number of Rooms in Basement:	Does the building have Central air conditioning? (Check one) Yes ___ No ___

Give dates and costs of construction for additions, remodeling, et cetera, if within the past five years:		
Addition, Remodeling Comments:	Year of Completion: _____	Cost: \$ _____
Addition, Remodeling Comments:	Year of Completion: _____	Cost: \$ _____
Addition, Remodeling Comments:	Year of Completion: _____	Cost: \$ _____

1992.05.07

Site Information:	attachment 1
Available Utilities: (Check all that apply) <u>NONE</u>	part 2 of 4
<input type="checkbox"/> Public Water	<input type="checkbox"/> Public Sewer
<input type="checkbox"/> Well	<input type="checkbox"/> Septic System
<input type="checkbox"/> Natural Gas	<input type="checkbox"/> Paved Street
<input type="checkbox"/> Sidewalk	
General Site Topography List any special site conditions: (e.g. level lot, steep lot, corner lot, lot on flood plain, private access to lot, et cetera)	
<u>FLOOD PLAIN, NO PRACTICAL ACCESS - CINDERBED ROAD IS BLOCKED, SEE ATTACHMENTS</u>	

Comments or additional information necessary to the Appeal:
<u>PRIVATE APPRAISAL TO BE SUBMITTED UPON COMPLETION</u>

Deadline for Application to the Board of Equalization is ~~July 1~~ ^{June 1}

Applications may be obtained by calling 703-³²⁴~~246~~-4891.

I hereby certify the facts contained herein and attached are true and correct to the best of my knowledge and belief.

Given under my hand this 19 day of May, 191992

Signature Jean O'Connell Nader ^{1/3} owner

Name JEAN O'CONNELL NAUER
(Printed or typed)

Address 350 4th Ave
New Kensington, PA 15068

Phone (Work) 412-337-7537 (Home) 412-337-7537

Would you like to be present at the time of inspection? Yes No X

Comparable Properties

If your request for review is based on either Over-Valuation or the assessment is NOT UNIFORM, please complete the following form.

For cases where the assessment is NOT UNIFORM, identify similar and comparable properties which will demonstrate a lack of uniformity in your assessment. For cases of Over-Valuation, cite recent sales prior to January 1 of comparable properties demonstrating that your assessment exceeds fair market value.

1992.05.07

attachment 1

part 3 of 4

This information is necessary to review your assessment.

COMPARABLES UNKNOWN

A. Map Reference # _____	Assessed Value
Owner(s):	Land \$ _____
	Improvements \$ _____
	Total Value \$ _____
Property Address:	
City:	Zip:
State property differences and/or sales data:	

B. Map Reference # _____	Assessed Value
Owner(s):	Land \$ _____
	Improvements \$ _____
	Total Value \$ _____
Property Address:	
City:	Zip:
State property differences and/or sales data:	

C. Map Reference # _____	Assessed Value
Owner(s):	Land \$ _____
	Improvements \$ _____
	Total Value \$ _____
Property Address:	
City:	Zip:
State property differences and/or sales data:	

APPLICATION FOR REVISION OF REAL PROPERTY ASSESSMENT

1992.05.07

INSTRUCTIONS FOR FILING

attachment 1

part 4 of 4

This form is provided to assist you in requesting revision of your property's assessed value. The information that you supply is needed to assure that we have complete and correct information on the property which will assist us in determining a fair and equitable assessment. For this reason, it is beneficial to complete the application as fully and accurately as possible. You may still submit this appeal application even if you are unable to answer all of the questions or do not wish to answer certain questions.

Be sure to identify your property on the application as it is identified on your assessment notice. A separate application should be used for each parcel being appealed. Please enter a telephone number where you may be reached and indicate if you wish to be present when the property is inspected. You must date and sign the appeal form to initiate the appeal process.

- If your appeal is based on over-valuation, you should support your appeal by citing market evidence (i.e. sales of similar property) of over assessment.
- If your appeal is based on the inconsistency or lack of uniformity of your assessment with similar properties, you should support your request by identifying similar properties that show your assessment to be inequitable.
- If your appeal is for an income-producing property, you should provide an official copy of the most recent Income and Expense Statement for the property, or complete a special survey form supplied by this office.

In all cases, you should identify any unusual or abnormal conditions which may affect the property's value.

HOW TO RECEIVE ASSISTANCE

The use of correct and current information is necessary when considering the fairness of your assessment. When listing comparable properties, each must be identified by at least one of the following: Tax Map Reference Number; Street Address; Property Owner(s) Name(s). ~~Correct assessment and sales information is available for your individual research on the 4th Floor of the Massey Building, 4100 Chain Bridge Road, Fairfax Virginia. In addition, assessment information may be obtained from the Office of Assessments by telephoning (703) 591-8599 between 8:00 a.m. and 4:30 p.m., Monday through Friday.~~

CONSTITUTIONAL BASIS OF ASSESSMENT

The Constitution of Virginia requires all real estate to be assessed at fair market value and to be uniform with comparable properties. Fair Market Value is the price at which the property would sell, given a willing buyer and a willing seller in an 'arm's length transaction', that is, one in which there is no special relation between buyer and seller. Uniform with similar properties means that properties comparable in fair market value are also comparable in their assessed value. To meet these requirements, all property in Fairfax County is assessed annually and assessments are effective January 1 of each year.

STATUTORY BASIS FOR APPEAL

Title 58.1, Chapter 32, Article 12 of the Code of Virginia Ann. provides for administrative appeal of your assessment if you feel the property is over-assessed with respect to fair market value, or if you feel your assessment is not equitable with comparable properties. The amount of change in assessment is *not* a basis for revision.

REVIEW PROCESS UPON APPEAL

A request for revision of an assessment will initiate a review of both the land and building portions, as well as the total value of your property. Both market (sales) data and comparable property assessments will be considered and the assessment may be affirmed or adjusted (either upward or downward) to establish a fair and equitable assessment for the property. In all cases, you will be provided with written notification of the results of the review.

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

May 14, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Re: Estate of Jean M. O'Connell

Dear Mr. O'Connell,

The enclosed letter of this date was written and about to be mailed when I received your letter to Jean of May 12 "Reference Accotink" etc.

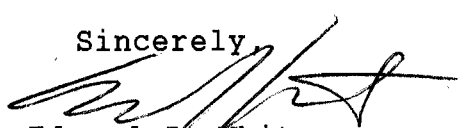
In your previous letter you used the phrase "protect me from Mr. White". In this letter you state: "I would not touch this with a ten foot pole for fear of Mr. White convincing you to sue me for something." I do get a little disturbed at this continuing tone.

I do not know how on earth I can convince you that I bear you no animosity and have absolutely no idea nor desire whatsoever of causing you any harm.

As far as Accotink is concerned, as you have noted I am not a beneficiary and I am not involved in the trust which existed prior to your mother's death, and I have no personal interest at all in it.

I have put forward suggestions that might make the receipt of this property more profitable for the three of you. I have done that only out of a desire for the best financial interests of each of you. I do not get paid a cent extra for the time I have expended in this regard. Whatever decision the three of you make is fine with me. I only brought you into this matter at all, having been aware of the superb efforts you have made in the past to make this property a worthwhile venture.

Sincerely,


Edward J. White

EJW/e

Copy to: Jean M. Nader

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

May 19, 1992

Mr. Anthony M. O'Connell
c/o Edgar A. Prichard, Esq.
8280 Greensboro Dr.
#900
McLean, Va. 22102

Re: Estate of Jean M. O'Connell

Dear Mr. O'Connell,

In your letter of May 6 to Jean you asked that I communicate with you with regard to the Harold O'Connell Trust.

I am trying to prepare the estate tax, and as usual in these cases, there are problems trying to understand the flow of debts and income.

I do have a few questions which are put forward simply so that the figures on the Trust's tax returns and accounting will agree with the estate's.

1. The K-1 filed by the Trust for 1991 showed income to your mother of \$41,446.00. The Seventh Accounting appears to show a disbursement to her of \$40,000.00 plus first half realty taxes paid by the trust for her and thus a disbursement to her of \$1794.89. If these two disbursements are added the sum is \$41,794.89. This leaves \$348.89 which I cannot figure out. It could well be a disbursement of principal and not taxable.

2. The K-1 filed by the Trust showed a payment of \$816.00 in interest to the estate. You sent a check in the amount of \$1475.97 to the estate. What was the remaining \$659.97? Do I have this confused with the tax debt/credit situation which ran from the Third Accounting?

3. On the Seventh Accounting "Income per 7th Account" is shown as \$5181.71, but I cannot figure that one out either.

I am of the opinion that the estate owes the trust for the second half real estate taxes from September 15, 1991 through December 31, 1991 in the amount of \$1052.35. This is shown on your accounting as disbursed to the heirs. Should this be paid back to the heirs or to the Trust?

I believe that the income received from the savings accounts

Page 2
Ltr to Mr. Anthony M. O'Connell
May 19, 1992

from September 15 to the date the various banks made their next payment to the Trust (9/30 and 9/21) should be split on a per diem basis, since the Trust terminated on her death. This will be a small amount of course.

Are there any other debts which your Mother owed the Trust?

I realize that Jo Ann Barnes prepared this and if you authorize it I can ask her to help me out.

Please understand that I have no problem with the Accounting, I m just trying to match things up. In the long run, since the beneficiaries are the same, the matter is academic.

Please send the bill for the appraisal whenever you receive it. Jean is filing the Fairfax form for re-assessment in her capacity as a co-owner in order to give us a better basis to get this assessment changed and to meet the county's deadline. It will state that the appraisal you have ordered will follow. I think this will be to all of your benefit in the long run.

Sincerely,



Edward J. White

EJW/e
Copy to: Jean M. Nader

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

June 11, 1992

Virginia Department of Taxation
Estate Tax Section
P.O. Box 768
Richmond, Va. 23206

Re: Estate of Jean M. O'Connell
SSN 230 50 6044
Filing Extension Request

Gentlemen:

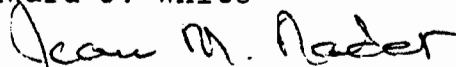
Enclosed is a copy of IRS Form 4768 with attachment and the Estate's check in the amount of \$31,000.00.

An extension of the filing date is requested.

Sincerely,



Edward J. White



Jean M. Nader

Co-Executors

EJW/e
Encl.

ESTATE OF JEAN M. O'CONNELL

PART II EXTENSION OF TIME TO FILE

1. The decedent was a part owner of a tract of ground the value of which is to be determined by an appraisal in progress. The enclosed payment is based on the maximum value for the property and will be changed.

2. The estate does not at this date possess full data for certain gifts and debts of the estate and other needed information.

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

June 11, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Re: Estate of Jean M. O' Connell

Dear Mr. O'Connell,

Thank you very much for your letter of June 9 and the appraisal.

I am helping Jean with the county matter and would appreciate your assistance since you certainly have much more expertise in the Accotink affair than anyone else. I agree that we must amplify the material previously sent to the county, and that the letter you enclosed is most pertinent. I had copies you sent me several years ago of the 1987 letters you wrote and received, but did not have the October letter.

Enclosed is a proposed addendum for the county which I wish you would look over, edit and add any comments that you think we should make. I am sure there are many factors that I have missed that you can add and welcome your input.

With regard to the income tax matter and the capital gain from the receipt of principal on the Lynch note in April 1991, I was following the 1990 return and simply did not pick up the fact that there was a principal payment in 1991. I will most certainly pay any interest and penalty which might accrue in this regard, and sincerely appreciate your calling it to my attention.

Again, I appreciate your help.

Sincerely,



Edward J. White

EJW/e

Copy to: Jean M. Nader
Edgar A. Prichard, Esq.

DRAFT

Omitted from the previously submitted appeal was a copy of a letter from the Secretary of Transportation, dated October 13, 1987 in reply to Mr. Anthony O'Connell's letter to her of September 14, 1987 (a copy of which was attached to the appeal).

Mrs. Watts' reply makes quite clear that the county map of Cinderbed Road is in error. The road begins at Newington Road and continues for only 1.0 miles, not 1.5 miles.

The O'Connell tract lies one half mile beyond the end of Cinderbed Road and therefore there is no legal access at all to this property. This is an extremely important factor in justifying a reassessment of the property.

In addition, a full appraisal of the property by Thomas E. Reed has just been received setting a fair market value of \$300,000.00 on the tract. This appraisal notes that one third of the property lies in a flood plain, that the soil conditions are only rated "fair" for residential development and that the terrain is steep and rugged in places.

Mr. Reed is of the opinion that the only potential of the property would be to combine it with the 245 acre Hunter Tract to the south. He notes that the development of that project is apparently on hold due to economic factors.

Attached are extracts of the pertinent part of the report. The entire document is available and a full copy can be delivered to you upon request.

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

June 30, 1992

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Re: Gift and Income tax returns

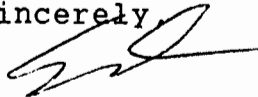
Dear Jean,

Enclosed are: Virginia and IRS amended 1991 tax returns to be signed and mailed, letters to the IRS and Virginia, checks for each, and gift tax returns for 1989 and 1991 to be to be signed and mailed.

I will pay any interest and penalty which accrues on the amended tax return. The amount reflects the tax on the \$125,188.17 principal payment made on the Lynch note in the Spring of 1991.

I never heard from Tony after my letter asking his input on the real estate tax matter. I gather from his letter to Fairfax County of June 25, that he is taking it over which is fine with me.

Sincerely,



Edward J. White

EJW/e
Encl.

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

July 20, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Re: Estate of Jean M. O' Connell

Dear Mr. O'Connell,

Thank you very much for sending a copy of the 1988 gift tax return. I could tell from the 1990 return that a gift had been made to someone, but I never had a copy of the 1988 return.

Your assistance has been most helpful.

As soon as we can arrive at a final figure for Accotink, we should be able to file the estate tax return.

Sincerely,


Edward J. White

EJW/e

Copy to: Jean M. Nader
Edgar A. Prichard, Esq.

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 836-5444

November 13, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Mrs. Sheila O'Connell-Shevenell
44 Carlton St.
Portland, Maine 04102

Re: Estate of Jean M. O'Connell

When I agreed yesterday to the disbursement of the A. G. Edwards accounts by the end of the year, I had not looked at the bank balance of the estate for some time. There is \$64,216.83 in the estate account which includes the sum of \$14,408.53 received today from the IRS for the estate tax overpayment.

To date the sum of \$324,000.00 has been disbursed to the heirs, which has been done on the assumption that we have on hand enough money to pay the rest of the debts. Normally an estate is not disbursed until an Estate Tax Closing Letter has been received from the IRS and Virginia.

I cannot agree to a disbursement from the Edwards accounts until a closing letter is received. As you recall the Accotink property is assessed at \$600,000.00 by the county. Based on the appraisal, we used one half of that figure (times the percentage interest owned by your mother). In the event the IRS does not agree and insists on the full valuation, the estate tax liability could increase by about \$67,000.

Out of the bank account must come the executors' commission which will be about \$45,000.00, a fee for the Fiduciary Income Tax return preparation and various filing fees of a small nature. There simply is not enough money left to cover the contingencies. A disbursal in these conditions would be a violation of the duty of the fiduciaries.

Since the IRS has issued the refund (with interest), I would assume a closing letter is not far behind.

Some questions have arisen as to your tax liabilities. The

Estate paid an estate tax on the value of the property owned by your mother at her death. Since the tax is paid, what is distributed to you is tax free.

In addition there is a fiduciary income tax on the earnings of the estate while it is open. The First Accounting shows income of \$56,928.52 from 9/15/91 through 9/15/92. Basically this is what will be taxed as estate income. Of this \$659.97 can be ignored as it was repayment of a debt from the O'Connell Trust and not income, and at least \$13,388.25 was tax free income. The fiduciary income tax is paid by the estate if it was not disbursed during the tax period. In your case it was disbursed, and you will receive a form K-1 showing how much should be added to your regular income. This is why it is called "pass through" income. This might be about \$14,000.00 each not counting deductions which are due to the estate. Jo Ann Barnes is preparing this return for the estate at present.

The question of capital gains comes up often in estate situations. Any asset owned by a decedent at the time of death is given a "stepped up" basis to its value at the date of death. If the heirs then sell the asset the only taxable capital gain (or loss) is the change in value between the date of death and the date of sale. The Accotink property falls in that category, though the basis on the share formerly held in trust has a basis as of the date of your father's death. The Lynch note will not produce any capital gain since it was taxed in the estate as part of your mother's assets. It will produce an income tax effect on the fiduciary income tax return since \$26,917.17 in interest was received by the estate. This is included in the \$56,928.52 referred to above.

The remaining items left to do in the estate are the filing of a request for the publication of Debts and Demands against the estate, filing a second and final accounting, obtaining a court order for the distribution of the estate and filing a second fiduciary income tax return from the period 9/15/92 through the date of disbursement.

Sincerely,


Edward J. White

EJW/e

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 836-5444

November 16, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Mrs. Sheila O'Connell-Shevenell
44 Carlton St.
Portland, Maine 04102

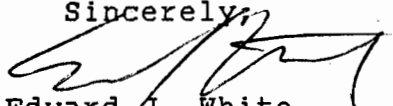
Re: Estate of Jean M. O'Connell

Regretfully I have to amend my letter of Friday. There is no "stepped up basis" on the Lynch note according to the accountants who are preparing the fiduciary income tax return. This is subject to a credit for tax paid on part of it in the estate tax return, but it will result in an estimated \$35,000 to \$40,000.00 in tax to the estate due to the note payoff. This is one of the reasons why a further disbursement would not be wise.

In addition, Jo Ann Barnes commented to me today that the Accotink valuation could well result in a question by the IRS and she feels no disbursement should be made.

Some sale of the Edwards accounts will probably be needed.

Jo Ann also reminds me that each of you should check with your own tax adviser after receiving the K-1 forms as to payment of estimated income taxes.

Sincerely,

Edward J. White

EJW/e

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 836-5444

December 11, 1992

Mr. Anthony M. O'Connell
6541 Franconia Rd.
Springfield, Va. 22150

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Mrs. Sheila O'Connell-Shevenell
44 Carlton St.
Portland, Maine 04102

Re: Estate of Jean M. O'Connell

As a result of information gleaned at an estate law seminar yesterday, I think there may be a way of reducing the estate tax.

The law has long allowed percentage discount for "minority" interests in land which pass from a decedent. This means that if the decedent owned a partial interest (less than 50%) of a piece of property, that the IRS would allow a discount of its true value since minority interests are extremely difficult to sell.

A very recent case has upheld this discount even where two family trusts with the same trustees and same beneficiaries wound up owning the property. A 15% discount was allowed. In our case, prior to your mother's death, she owned a 53.9006% interest in Accotink and the Harold O'Connell Trust owned the rest.

I have discussed this idea with Jo Ann Barnes who feels that even though 53.9006% is not a minority interest, that we might, nevertheless, get the discount. She suggests amending the return, asking for 30% and settling for 15%.

The IRS will counter with several arguments. One, is that it is not a minority interest. She feels we might prevail since it is only just over 50%. Second, since the land is held as tenants in common, it could be partitioned into smaller facts (zoning problems notwithstanding) and either the trust or any of you could sell your interest if a buyer could be found. The IRS will also argue that aspect. The normal course, however, would be for some discount to be allowed.

The bottom line on this is shown on the enclosed tax computation. A fifteen percent discount would result in a tax

savings to each of you of \$3151.31.

The disadvantages are:

1. This will, in Jo Ann's opinion, absolutely trigger an audit and negotiation.
2. The final disbursement will be delayed.
3. The basis to each of you in the property will be reduced and will result in an increased capital gains tax later on when the property is sold.

As to the last item, Jo Ann pointed out that while there might be a higher tax in the future, you would have the use of the tax savings money now, and that the capital gains rate is 28% whereas the estate is in a 39% federal bracket. As to the first and second items, there may well be an audit anyway on the Accotink valuation question.

I will leave this decision to you, and would ask that Jean coordinate the response. I will be going out of town on December 19 and will be back on January 11. I do not see how it can be done before then.

As to other items - We heard from Virginia concerning the amended income tax return. There was a penalty of \$106.00 which I paid. The fiduciary income tax will be \$56,000.00 mainly due to the capital gain on the note payoff. The estate is charged with this. Since the estate and the heirs are in the same bracket, there is no difference whether it is paid by the estate or you. There may even be a savings on state taxes depending on rates.

Sincerely,



Edward J. White

EJW/e

1	GROSS ESTATE	1,041,017.55	15% OFF LAND	1,016,776.73
2	DEDUCTIONS	108,803.52		108,803.52
3	TAX EST	932,214.03		907,973.21
4	AJD TAX GIFTS	42,600.00		42,600.00
5	TOTAL 3&4	974,814.03		950,573.21
6	TENTATIVE TAX	335,977.47		326,523.55
7				
8	TENTATIVE TAX	335,977.47		326,523.55
9	GIFT TAX	8,824.00		8,824.00
10	GROSS EST TAX	327,153.47		317,699.55
11	UNIFIED CREDIT	192,800.00		192,800.00
12				
13	ALLOWABLE UN CREDIT	192,800.00		192,800.00
14	10-13	134,353.47		124,899.55
15	CREDIT FOR STATE TAX	29,403.99		28,046.50
16	14-15 TAX	104,949.49		96,853.05
	FED DIFFERENCE			8,096.43
	STATE DIFFERENCE			1,357.49
	TOTAL DIFFERENCE			9,453.92
	DIFFERENCE TO EACH			3,151.31

EDWARD J. WHITE
ATTORNEY AT LAW
118 SOUTH ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 836-5444

February 2, 1993

*I sent
this to you
before*

Mrs. Jean M. Nader
350 Fourth Ave.
New Kensington, Pa. 15068

Re: Estate events

Dear Jean,

At present the status of the estate is as follows:

Debts and Demands: A hearing following publication, for any creditors of the estate to come forward and press their claims was held on December 30, 1992 by the Commissioner of Accounts. No one appeared.

First Accounting: is still awaiting approval. I spoke to the Commissioner's office on January 29, and they said they are just beginning to review accounts filed in October. The account must be reviewed and any questions answered. (I have never known of a Commissioner who did not have some questions.) The account is then approved or disapproved, and the Commissioner files his report with the court. No time prediction can be made here as this is solely in the hands of the Commissioner.

Estate Tax Closing Letter or communication in lieu of a closing letter. No time prediction can be made here as this is solely in the hands of the IRS. In estate's of this size an audit of some or all of the return is not at all unusual.

Motion for an Order to Show Cause why the estate should not be distributed. Filed by the estate after the report of the accounting has been filed with the Court by the Commissioner.

Order to Show Cause why the estate should not be distributed. This is entered by the Court upon the request (and appearance) of the estate, following two weeks publication.

Order of Distribution. Presented to the Court following the Show Cause proceeding. The Show Cause - Order of Distribution statutory scheme is the protection for the executors.

Distribution in accordance with the Order.

Second (and Final) Accounting Filed after distribution

showing all transactions since the First Accounting.

Second Fiduciary Income Tax Return Filed after distribution for the period following the first return (9/1/92 - ?)

The unknown factors as far as time is concerned are: 1) the federal and state tax closing letters, 2) When the Commissioner approves the accounting, 3) When the Commissioner makes his report to the Court, 4) Delays in the Clerk's office. The fiduciary has no control whatsoever over any of these items

Enclosed are checks to be signed to the Commissioner and to Keller-Bruner for the tax preparation. The accountant's bill is reasonable considering the complexity of the return involving tax free income, preliminary distributions and capital gains.

As far as an income prediction for the Estate is concerned, I can make no intelligent prediction since I do not know how long it will remain open. I have been continuously burned in making gratuitous comments about the tax liability of the heirs, and counsel and other attorney friends have stated to me, that given the performance of Mr. O'Connell, that I should make no comment at all. I tried to be helpful, but that did not work. I can only say that had I not been adamant about re-valuing the Accotink property, Mr. O'Connell's initial approach would have cost this estate dearly. From the comments in his recent demands for "information", I can see that he is jumping to conclusions based on no knowledge at all. I will not reply directly to him on any future aspect of this estate. As a matter of fact I am precluded as an attorney from dealing with an adverse party who is represented by counsel. I have no intentions of having him dictate the duties of the fiduciaries. If his counsel wishes to discuss anything, I am certainly available.

The present assets of the estate are:

- | | |
|--|------------|
| 1. Burke and Herbert Bank
at a fluctuating interest rate (3.1% in January) | \$8,602.89 |
| 2. Kemper Municipal Bond Fund (Edwards)
based on January share price x shares owned | 32,484.60 |
| 3. Franklin Va Fund (Edwards)
based on December share price x shares owned | 58,185.78 |
| 4. Investment Co. of America (Edwards)
based on december share price x shares owned | 73,800.59 |
| 5. Nuveen Premium Inc Fund (Edwards)
based on Edwards 12/31/92 statement | 11,812.50 |

6. 198 sh Signet Banking Corp (Edwards) based on Edwards 12/31/92 statement	8,910.00
7. 200 sh Washington Gas Light (Edwards) based on Edwards 12/31/92 statement	7,725.00
8. Centennial Money Market Trust (Edwards) based on Edwards 12/31/92 statement	3,949.07
9. Cash at Edwards based on Edwards 12/31/92 statement	224.60
10. Fairfax Co. 6.4% bond (Edwards) based on face value not market value	110,000.00

This totals \$315,695.03, but is out of date since there have been additions since 12/31/92. These figures are taken from data at hand and do not represent any formal accounting by me. They are not furnished for any individual's use for personal tax purposes, and I disclaim any personal tax liability which might arise.

I am enclosing Edwards 12/31/92 statement which contains an entry for each asset's estimated annual yield. The amounts received from all of these funds will vary with market conditions. All of these Edwards assets are being reinvested, either in the specific funds or in Edwards Centennial Money Market Account. The estimates on Franklin, Kemper and ICA are much harder to figure. A complicating factor is that Nuveen, Kemper, Franklin and the Fairfax bond are tax free, though not all of them are Virginia tax free.

The following are the earnings from 9/1/92, the beginning date for the next fiduciary income tax return.

	GROSS	TAXABLE
Nuveen 9/1/92	67.90	67.90
Nuveen 9/1/92	24.50	24.50
Int earned B&H	406.86	406.86
END FIRST ACCOUNTING		

SECOND ACCOUNTING PERIOD

Nuveen 5/1/92	66.50	66.50
Int earned B&H	150.45	150.45
Virginia Estate tax refund	1,596.01	
Virginia Estate tax refund, interest	14.04	14.04
U S Estate tax refund	14,050.52	
U S Estate tax refund interest	358.01	358.01
Int earned B&H	133.64	133.64

Int earned B&H	151.96	151.96
Int earned B&H	81.46	81.46
TOTAL TO DATE	17,101.85	1,455.32

It should be noted that some of these items are tax free.

Since the tax laws now require payment of estimated taxes after the first estate tax year, I will have to compute these later. They will be due in April, if the estate is still open then.

Finally, I would like, for the record some memorandum from you and Sheila concerning my earlier comments as to attempting a further reduction in the Accotink valuation.

Sincerely,



Edward J. White

EJW/e
Encl.

1	GROSS ESTATE	1,041,017.55	15% OFF LAND	1,016,776.73
2	DEDUCTIONS	108,803.52		108,803.52
3	TAX EST	932,214.03		907,973.21
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