

# Skill

The only thing our family needed was the final estate account:

**[Jean O'Connell to Joanne Barnes]** My son Tony called. He said he wanted very much to be the full trustee with an agent to receive notices and processes from the court & commissioner as in the May 8th letter. First thing is to have the final accounting based on same figures as in the 1st acting. Send it to me- do I have to sign it"

**[Joanne Barnes to Jean O'Connell]** call- will do draft of final acting. Deed to property-convey to court. Needs how much (1985.05.08+)

Why does Henry Mackall premise that our family is divided and that he is trying to prevent further division while leading Anthony O'Connell to believe that the accountant's agenda of "will do draft of final acting. Deed to property-convey to court. Needs how much" agenda, is Jean O'Connell's agenda? Secrecy is fatal.

~~SAVE~~  
reestablishing a

RE Est of HACC

45,325.00

In answer to your letter of May 8, 1985 regarding progress ~~the~~ trust to be setup required by the will with Anthony O'Connell as Trustee I would like to report that a <sup>co-</sup>Trustee has agreed to serve with him

Ms. Jo Anne Berner  
~~Home address~~  
7225 Pine Dr. }  
Annandale, Va 22003 }  
354-0673 }  
549-7800 -office } office

Common sense suggests that Jean O'Connell would have named the lawyer if the accountants had not gotten her to accept their policy of secrecy. Secrecy is fatal.

~~I~~ she will be working on this very soon with a lawyer. I had hoped that the procedure of setting up a trust could be simplified by ~~instead~~ putting title to ~~that amt~~ <sup>the Berner's estate (my home)</sup> in the names of my three children ~~the~~ the same as listed in the will to receive it.

There should be more definite progress soon and I will inform your office then.

V T Y

J M O'C Entry

Sent  
5/31/85

To Commissioner of Accts.

Sent 5/31/85

~~Lo Kaiser-Hilton.~~

Family

20a

549-7800  
Lo Ann -  
my son Tony called. He said he wanted  
very much to be the full trustee with an  
agent to receive notices and processes from the  
court & commissioner as in the May 8th letter.

~~about~~

First thing is to have the final  
accounting based on same figures  
as in the 1st acctg.  
send it to me - do I have  
to sign it,

Accountants

20b

3 call — will do draft if final acctg.  
2 deed to property — convey to court.  
1 needs how much

4 withhold

LAW OFFICES

**MACKALL, MACKALL, WALKER & SILVER**

A PROFESSIONAL CORPORATION

4031 CHAIN BRIDGE ROAD

FAIRFAX, VIRGINIA

22030

HENRY C. MACKALL  
DOUGLASS S. MACKALL, III  
DOUGLAS D. WALKER  
GLENN H. SILVER  
NANCY E. GIBB

TELEPHONES  
(703) 273-0320  
(703) 273-0321

June 25, 1985

Mr. Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Re: Estate of Harold A. O'Connell

Dear Mr. O'Connell:

I received your letter with the enclosures regarding your father's estate and the trust referred to in the Will. From looking at the documents you sent me, it appears that the trust created by the Will was devised a 92.2% interest in each of the real estate interests included in the estate. Because the estate interest was only 50%, this would mean that the interest of the trust in each parcel of real estate is 46.1%. Your mother has apparently paid all of the real estate taxes from the date of your father's death and the trust would owe her 46.1% of those taxes. It seems to me that a final account would be very simple, merely reflecting the ownership percentages as distributions. No formal deed would be required. Obviously if either you or your mother wanted to sell, the other would have to agree. I notice from your letter to Joan Barnes you state that the trust should contain all of one or the other of the two properties. Is there some reason why you do not wish to have the 46.1% interest in each of the properties in the trust?

As soon as you advise me on this and on the response you receive from Ms. Barnes, I will have my associate, Amy Blanchard, contact your mother to see if we can't get this resolved.

Sincerely,



Henry C. Mackall

HCM/jkw

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(703) 273-0320  
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July 8, 1985

Mr. Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Re: Estate of Harold A. O'Connell

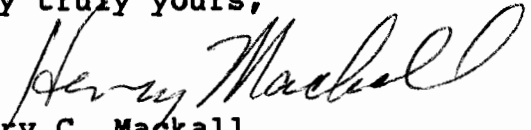
Dear Mr. O'Connell:

I have spoken with Ms. Barnes who agreed with my suggestion that a final account be filed by your mother reflecting the trust's ownership of an undivided percentage interest in the real estate. Funds advanced by your mother to pay the trust's share of the real estate taxes would be treated as a liability of the trust to be repaid when the realty is sold. She advised me that the percentages were not exactly as earlier calculated because of a slight difference in some jointly owned property. She is sending me a new computation which I will forward when it arrives.

In the letter your mother received from Mr. McCandlish, mention was made of your being able to qualify without a co-trustee if you appointed an agent on whom process might be served. I assume he was talking about Section 26-59 of our Code which deals with non-resident fiduciaries. I don't believe it is applicable to your situation. Because of this and because it will make your mother feel more comfortable, I discussed with Ms. Barnes the idea of her qualifying as a co-trustee with you. She has agreed. Since your mother is the sole beneficiary of the trust during her lifetime and is willing to forego any income from the trust there seems no need to sell the land. It has proven to be a good investment and your mother seems willing and able to continue to pay the real estate taxes as they accrue. The Will contains a waiver of bond for the trustee so that expense can be avoided. After an initial account there will only be a requirement to file one every three years showing no activity. When land is sold this situation will change but, at least for now, there will be little expense.

I think we can plan for you to come east at a time when Ms. Barnes is available so the two of you can qualify as trustees. The estate can be closed with little effort.

Very truly yours,

A handwritten signature in cursive script that reads "Henry C. Mackall". The signature is written in dark ink and is positioned above the typed name.

Henry C. Mackall

HCM/jkw  
Enclosure

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July 11, 1985

Ms. Joan Barnes  
Bruner, Kane & McCarthy  
300 North Lee Street  
P. O. Box 1250  
Alexandria, Virginia 22314

Re: Estate of Harold A. O'Connell

Dear Ms. Barnes:

Following my phone conversation with you, I reported to Mr. O'Connell that you and I had agreed on a procedure which could be followed in connection with closing the Estate of his father and I recommended that procedure to him. He has just advised me by phone that the procedure is not acceptable. As a result of our phone conversation I am no longer representing him.

Sincerely,



Henry C. Mackall

HCM/jkw

cc: Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

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TO: Mr. Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

DATE: July 11, 1985

FOR PROFESSIONAL SERVICES

Rendered by Henry C. Mackall,

Re: Estate of Harold A. O'Connell

For services rendered from June 20, 1985 through July 11, 1985  
in accordance with the attached computer printout;

*pd July 16, 1985*

TOTAL FEE \$ 360.00

COST ADVANCED:

Clerk \_\_\_\_\_ \$ \_\_\_\_\_  
Recording \_\_\_\_\_ \$ \_\_\_\_\_  
L/D Phone \_\_\_\_\_ \$ \_\_\_\_\_  
Photocopying \_\_\_\_\_ \$ \_\_\_\_\_  
Other \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ TOTAL COSTS: \$ \_\_\_\_\_  
TOTAL DUE: \$ 360.00



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August 20, 1985

Mr. Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Re: Estate of Harold A. O'Connell

Dear Mr. O'Connell:

I am sorry you did not understand the distribution from your mother's estate to the trust.

According to the Will, your mother was to receive from all sources (jointly owned property and other assets passing outside the Will and from her share of the probate estate) 50%. In order to determine exactly how much goes into the trust, you must look at the estate tax return. The original computations you furnished me (Ms. Barnes told me there were minor changes in these figures) showed a net probate estate of \$82,809.00. This included the two half interests in real estate valued at \$40,681.00 and \$37,500.00, respectively or a total of \$78,181.00. The share of your mother was one-half of the net estate (gross Estate for tax purposes less debts and expenses) which amounted to \$148,614.00. Her interest was therefore \$74,307.00. She received \$63,580.00 outside the Will. She therefore was entitled to an additional \$10,727.00 from the probate estate leaving the trust with the remaining \$72,082.00.

Taking a \$72,082.00 interest in the real estate worth \$78,181.00 equates to a .921988718% interest in that real estate. Since the real estate in question was only a half-interest, this equates to a .460994% interest in the whole. In my opinion that is what the trust should now have. In my letter to you of June 25th I rounded off the interests to show the trust with a 46.1% interest in each of the two parcels of real estate. As you will see, the trust does not get all but only 92.2% of the two remaining assets of your father's estate.

I am sorry I did not make this clear in my earlier correspondence. Please let me know if I can be of further help.

Sincerely,



Henry C. Mackall

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October 7, 1985

Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Re: Estate of H. A. O'Connell

Dear Mr. O'Connell:

Thank you or your letter of September 23 regarding your father's Estate. I will be happy to try to help you. I have serious problems with the limitations you wish to place on me. I believe a great deal can be accomplished by free and open discussion between counsel and I cannot see any harm in throwing out possible alternatives during such a discussion. I cannot hang up each time a new subject comes up in order to get instructions. I never commit a client to any particular course without his approval but I might well discuss actions which later turn out to be unacceptable to the client.

Your plan sounds fine but you cannot insist on it and be certain it will be adopted. There is no problem with funding the trusts as suggested. It seems the only practical way.

I do not know anything about Mr. Higham. I think your mother's wishes must be considered since she is a beneficiary. I know the Court will consider her desires before it makes an appointment.

I see no reason why the intended final account has to be reviewed and approved before it is filed. If it is wrong, objections can be made before the Commissioner of Accounts. If we reach an agreement I assume the account will be drawn as we discussed earlier and that we'll have some input.

If you want me to help further please let me know.

Sincerely,

  
Henry C. Mackall

HCM/jkw

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NANCY E. GIBB  

---

AMY E. BLANCHARD

November 4, 1985

Mr. Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Re: Estate of H. A. O'Connell

Dear Mr. O'Connell:

I have today received executed agreement signed by your mother which would, I believe, carry out the desires you expressed to me in our last conversation. If this agreement meets with your approval please make arrangements to come here and qualify with Mr. Higham as Trustees of the Testamentary Trust. When you do so this agreement can be executed and will become binding. I have both the original and copy signed by your mother in my file and enclose herewith a copy. If you have any problem with this please let me know.

Sincerely,



Henry C. Mackall

HCM/jkw  
Enclosure

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TELEPHONES  
(703) 273-0320  
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November 25, 1985

Mr. Anthony M. O'Connell  
2337 South 13th Street  
St. Louis, Missouri 63104

Re: Estate of Harold M. O'Connell

Dear Mr. O'Connell:

I have discussed the percentage of the real estate which is owned by the Testamentary Trust under your father's Will with Mr. White and Ms. Barnes. The correct figure is 46.0994%. When you and Mr. Higham qualify as Trustees, a final account can be filed and the agreement with the revised percentages can be signed. I have made changes in ink and you can initial those changes to reflect the correct percentages.

As I have discussed with Mr. White and Ms. Barnes, the advances which your mother has made and will make to pay the taxes will be treated as loans to the Testamentary Trust which do not bear interest and which will be payable only when the properties are sold. Ms. Barnes advises me that through 1984 the taxes paid for the benefit of the Trust on the percentage ownership which the Trust has have amounted to \$13,841.24. I have not checked her figures but understand that they all came from the annual accounting filed on behalf of the Estate.

I am glad that this matter has been concluded successfully and look forward to seeing you when you come to qualify.

Sincerely,

  
Henry C. Mackall

HCM/jkw  
cc: Edward J. White, Esq.  
Ms. Joanna Barnes

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AMY E. BLANCHARD

December 4, 1985

Mr. Anthony M. O'Connell  
2337 South 13th Street  
St. Louis, Missouri 63104

Re: Estate of Harold M. O'Connell

Dear Mr. O'Connell:

I received the message you left for me last Friday afternoon which was repeated in your letter of November 29. Mrs. O'Connell is the lifetime beneficiary of the Trust under which you will be acting. She is therefore entitled as a matter of right, to use the property which constitutes the corpus of the Trust. I have a great deal of concern over taking a position that she must pay for the right to use the Trust property. This is particularly true since she is a co-tenant in her own right, owning 53.810%. As such, she has a right to occupy the property irrespective of the Trust provisions.

As things have been proposed, it would not be necessary for you and Mr. Higham to be in Court at the same time as Mrs. O'Connell. In the event no agreement is reached, there will inevitably come a time when a confrontation in Court must take place. I continue to believe this can be avoided.

If we are unable to reach an agreement, I fear that Mrs. O'Connell will contest your request to act as Trustee. The questions will then have to be determined by the Court. I don't know the nature of your disagreement with her but it seems clear

that there is a direct conflict between you and her. I frankly doubt that the Court would permit you to serve as Trustee in view of that conflict. I believe your failure to agree that sums advanced by Mrs. O'Connell to pay real estate taxes due on trust property could lead to the kind of confrontation we have been trying to avoid. From the figures you gave me with respect to the value of the real estate, the small amount of tax payments would not seem to be very important. I think you ought to reconsider your position with respect to these taxes. Please review this question and let me know your decision.

Sincerely,



Henry C. Mackall

HCM/jkw

*P.S. Enclosed is a redrafted agreement for your review.  
Hen*

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AMY E. BLANCHARD

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(703) 273-0321

February 13, 1986

Mr. Anthony M. O'Connell  
2337 South 13th street  
St. Louis, Missouri 63104

Re: Estate of Harold M. O'Connell

Dear Mr. O'Connell:

Enclosed is copy of agreement dated January 28, 1986 which has been signed by you and your mother. All that remains is for you and Mr. Higham to qualify as Trustees and for Mr. Higham to sign the agreement. I recommend that we do this at your earliest convenience.

Please let me know when you will be coming to Fairfax for this qualification. I will be out of town on the 6th and 7th of March and hope you will be able to schedule it some other time. I can have someone else from my office go with you if we run into a conflict but I would prefer to do it myself.

Sincerely,



Henry C. Mackall

HCM/jkw  
Enclosure

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February 24, 1986

Mr. Anthony O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Dear Mr. O'Connell:

I have your letter of February 20, 1986 in which you state that other things must be done before you will come to Fairfax and qualify. I am afraid we are having some difficulty in our communications. There are no "new real estate titles" involved. The property devised by the Will passed automatically to the Trustees, subject to their qualification. the only thing required to vest title in the Trustees is for the Trustees to come here and qualify.

The final estate filings cannot take place until after the Trustees have qualified and the real property has vested in them.

The next step in this procedure is for you and Mr. Higham to qualify. When that takes place the whole thing can be finalized.

Sincerely,

  
Henry C. Mackall

HCM/jkw



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AMY E. BLANCHARD

March 12, 1986

Mr. Anthony M. O'Connell  
2337 South Thirteenth Street  
St. Louis, Missouri 63104

Re: Estate of Harold A. O'Connell

Dear Mr. O'Connell:

I have your letter of March 3, 1986. In Virginia there is no such thing as revising real estate deeds under the situation involving your father's estate. I thought I had adequately covered this in one of my earlier letters. Under the Will, the property passed to the Trustees directly. The trustees, however, have not qualified and therefore cannot be said to own the property. As soon as they qualify the property will retroactively be deemed to be owned by the Trustees. I wish you would come East so that you and Mr. Higham can appear in the Clerk's Office and qualify as Trustees. Only then will a receipt signed by the two of you showing the property to have been received be effective. At that point a final account can be filed by the Executrix who has actually had nothing to do with the real estate except by reason of the failure of the Trustees to qualify. I fail to see that there is anything needed other than for you and Mr. Higham to qualify as Trustees and for Mr. Higham to sign the agreement.

I am going to forward Mr. Higham a copy of this letter with the request that he sign the agreement and return it to me. As soon as you both qualify I will deliver it to Mr. White. Since the matter has been worked out in such a satisfactory way I think you should do what you must to conclude it.

Sincerely,



Henry C. Mackall

HCM/jkw

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---

AMY E. BLANCHARD

TELEPHONES  
(703) 273-0320  
(703) 273-0321

May 8, 1986

Mr. Anthony M. O'Connell  
2337 South 13th Street  
St. Louis, Missouri 63104

Herbert A. Higham, Esquire  
6208 Higham Drive  
Alexandria, Virginia 22310

Dear Mr. O'Connell and Mr. Higham:

Enclosed please find a copy of my letter to Mr. White together with copy of a proposed Petition and Order in connection with the bond problem we ran into when you attempted to qualify. I have discussed this with Mr. White and expect no problem getting it entered. If either of you have any objections to anything in either of these documents please let me know.

Sincerely,



Henry C. Mackall

HCM/jkw  
Enclosures