

The Lawyers' Fund for Client Protection

of the State of New York

119 Washington Avenue • Albany, New York 12210

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Subject: Designation of Successor Signatories

Section 1200.46 (g) of the Rule of the Appellate Divisions of the Supreme Court (22 NYCRR 1200.46 (g)) provides as follows:

(g) Designation of Successor Signatories.

Timothy J. O'Sullivan,
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(1) Upon the death of a lawyer who was the sole signatory on an attorney trust, escrow or special account, an application may be made to the Supreme Court for an order designating a successor signatory for such trust, escrow or special account who shall be a member of the bar in good standing and admitted to the practice of law in New York State.

(2) An application to designate a successor signatory shall be made to the Supreme Court in the judicial district in which the deceased lawyer maintained an office for the practice of law. The application may be made by the legal representative of the deceased lawyer's estate; a lawyer who was affiliated with the deceased lawyer in the practice of law; any person who has a beneficial interest in such trust, escrow or special account; an officer of a city or county bar association; or counsel for an attorney disciplinary committee. No lawyer may charge a legal fee for assisting with an application to designate a successor signatory pursuant to this rule.

(3) The Supreme Court may designate a successor signatory and may direct the safeguarding of funds from such trust, escrow or special account, and the disbursement of such funds to persons who are entitled thereto, and may order that funds in such account be deposited with the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

The rule does not have official forms. To be helpful, I attach pleadings used by counsel in relevant applications to the Supreme Court under section 1200.46 (g).

In the event a court directs payment of client and escrow money to the Lawyers' Fund, it is important that you provide us with a copy of the application and order and all information from your files that identify the client or other beneficial owner of the funds. That information is needed in the event a claim is made to us for payment in the future.

Please feel free to call this office for assistance.



STATE OF NEW YORK
SUPREME COURT: COUNTY OF QUEENS

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IN THE MATTER OF MARINE MIDLAND
ACCOUNT NO. 008-81544-5

NEW YORK STATE GRIEVANCE COMMITTEE FOR
THE SECOND AND ELEVENTH JUDICIAL DISTRICTS,

:
:
: NOTICE OF
: PETITION

Petitioner,

-against-

MARINE MIDLAND BANK, N.A.,

Respondent.

022 732 / 95

-----X
S I R S:

PLEASE TAKE NOTICE, that pursuant to 22 NYCRR 1200.46

(g) petitioner will make an application to this Court at an all-purpose term to be held at the Supreme Court, Queens County Courthouse, 88-11 Sutphin Blvd., Jamaica, New York 11435, on the 27 day of November 1995, at 9:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order directing that funds held in an escrow account under the name of Fred Gold, Esq. (Marine Midland Account No. 008-81544-5) be turned over to the Lawyers' Fund for Client Protection of the State of New York, and for such other relief as this Court deems just and proper.

Dated: Brooklyn, New York
October 26, 1995

Yours etc.,

ROBERT H. STRAUS
Attorney for Petitioner

DAVID C.Y. CHEUNG
Of Counsel

GRIEVANCE COMMITTEE FOR
THE SECOND AND ELEVENTH
JUDICIAL DISTRICTS
210 Joralemon Street
Municipal Bldg., Room 1200
Brooklyn, NY 11201
(718) 624-7851

STATE OF NEW YORK
SUPREME COURT: COUNTY OF QUEENS

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IN THE MATTER OF MARINE MIDLAND
ACCOUNT NO. 008-81544-5

NEW YORK STATE GRIEVANCE COMMITTEE FOR :
THE SECOND AND ELEVENTH JUDICIAL DISTRICTS, : PETITION

Petitioner,

-against-

MARINE MIDLAND BANK, N.A.,
Respondent.

-----x
Petitioner, by its attorney, Robert H Straus, alleges:

1. At all times hereinafter mentioned, the Grievance Committee for the Second and Eleventh Judicial Districts (hereinafter "petitioner") has been an entity established pursuant to Judiciary Law Section 90 and the Rules of the Appellate Division, Second Judicial Department, Section 691.4 [22 NYCRR 691.4]. Its principal office has been located at 210 Joralemon Street, Room 1200, Brooklyn, New York 11201.

2. At all times hereinafter mentioned, the Lawyers' Fund for Client Protection of the State of New York (hereinafter "The Lawyers' Fund") has been an entity established pursuant to State Finance Law Section 97-t and Judiciary Law Section 468-b for the purpose of reimbursing the claims of those victimized by attorney dishonesty. It has been administered by a Board of Trustees appointed by the New York State Court of Appeals. Its principal offices have been located at 119 Washington Ave Albany, New York 12210.

3. Upon information and belief, at all times hereinafter mentioned, Marine Midland Bank, N.A., (hereinafter "Marine Midland") has been a banking institution created and existing in accordance with the applicable laws of the State of New York and the United States.

4. Upon information and belief, at all times hereinafter mentioned, Marine Midland maintained custody of certain funds in an attorney escrow account, number 008-81544-5, under the name of Fred Gold, Esq., 89-64 163rd Street, Jamaica, New York 11432.

5. Upon information and belief, the above account was maintained at a Marine Midland service branch located at 147-02 Hillside Avenue, Jamaica, New York 11435.

6. Upon information and belief, the balance in the above account is approximately seventy thousand dollars.

7. Upon information and belief, the above account was used as an escrow account by Fred Gold, an attorney who died on or about November 9, 1994.

8. Upon information and belief, Mr. Gold's estate has been handled by William R. Greenspan, Esq., of the the law firm of Baker and Greenspan, 1230 Jerusalem Avenue, North Merrick, New York 11556.

9. After Mr. Gold's death, Mr. Greenspan reported to petitioner that there would be claims against the funds in the above account which would exceed the amount of funds on deposit at the time of Mr. Gold's death.

10. Mr. Greenspan also reported this matter to Frederick Miller, Executive Director of and Counsel for The Lawyers' Fund for Client Protection of the State of New York.

11. Mr. Greenspan has requested The Lawyers' Fund to accept responsibility for the funds in the above account.

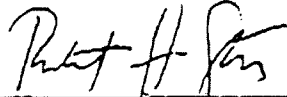
12. Mr. Miller has indicated that The Lawyers' Fund would accept responsibility for the funds.

13. Pursuant to NYCRR 1200.46(g) , this Court may order the funds in the above account to be turned over to the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

14. No prior application for the relief sought herein has been made to this or any other court.

WHEREFORE, petitioner requests this Court to issue an order, pursuant to 22 NYCRR 1200.46(g) , directing that Marine Midland turn over all funds in attorney escrow account, number 008-81544-5, under the name of Fred Gold, with The Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

Dated: October 23, 1995



ROBERT H. STRAUS
CHIEF COUNSEL
NEW YORK STATE GRIEVANCE
COMMITTEE FOR THE SECOND AND
ELEVENTH JUDICIAL DISTRICTS

4. I have been informed by William R. Greenspan, the attorney for Mr. Gold's estate, that the claims against the funds in the account exceed the amount on deposit at the time of Mr. Gold's death.

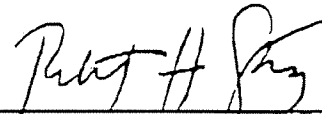
5. Mr. Greenspan has requested that the Lawyers' Fund accept responsibility for the funds in the above account.

6. I have been informed by Frederick Miller, Executive Director of and Counsel for Lawyers' Fund for Client Protection, that The Lawyers' Fund is willing to accept responsibility for the funds in the above account.

7. Pursuant to 22 NYCRR 1200.46(g), this Court may order Marine Midland to turn over the funds in the above account to the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

WHEREFORE, it is respectfully requested that this Court grant the relief requested in the annexed petition.

Dated: October 26, 1995



ROBERT H. STRAUS
CHIEF COUNSEL
NEW YORK STATE GRIEVANCE COMMITTEE
FOR THE SECOND AND ELEVENTH
JUDICIAL DISTRICTS

THE STATE OF NEW YORK
SUPREME COURT : COUNTY OF QUEENS

-----X
IN THE MATTER OF MARINE MIDLAND
ACCOUNT NO. 008-81544-5

NEW YORK STATE GRIEVANCE COMMITTEE FOR
THE SECOND AND ELEVENTH JUDICIAL DISTRICTS,

Petitioner,

AFFIRMATION

-against-

MARINE MIDLAND BANK, NA,

Respondent.
-----X

WILLIAM R. GREENSPAN an attorney duly admitted to the practice of law in the Courts of the State of New York, and a member of the firm of BAKER & GREENSPAN, ESQS., hereby affirms the following to be true under the penalties of perjury:

1. I make this Affirmation knowing full well that it will be relied upon by the Supreme Court of the State of New York, County of Queens in the above entitled proceeding.
2. I am the attorney for the Estate of Fred Gold in the Surrogate's Court, County of Queens under Index No. 5455/94. Mr. Gold passed away on November 9, 1994. At the time of his death, he was a practicing attorney in the County of Queens.
3. Mr. Gold had an attorney's escrow account at Marine Midland Bank, NA under Account No. 008-81544-5, which is the subject of this proceeding.
4. As the attorney for the estate, I have absolutely no objection to the relief requested herein. I have been asking, on behalf of the estate, for this proceeding to be brought since

January of 1995. The monies held in the escrow account do not belong to the estate and are not included in the estate since the monies represent client funds. It is also my belief that the funds in the account are not sufficient for the claims that already exist in connection with this account, and in fact, there may be additional claims.

5. Based upon the prospective insufficiency of the funds, it would seem logical to transfer the funds to the Lawyer's Fund for Client Protection of the State of New York for use in disbursement to the clients of Fred Gold, Esq., whose funds were placed in this account, and for no other purpose.

Dated: No. Merrick, NY
October 24, 1995


WILLIAM R. GREENSPAN

BARRY KAMINS, ESQ.
Chairman

State of New York
Grievance Committee
for the
Second and Eleventh Judicial Districts

MUNICIPAL BUILDING - 12th FLOOR
210 JORALEMON STREET
BROOKLYN, N.Y. 11201

(718) 624-7851

ROBERT H. STRAUS
Chief Counsel

DIANA MAXFIELD KEARSE
Deputy Counsel

ROBERT J. SALTZMAN
MARK F. DEWAN
DIANA J. SZOCHET
RICHARD LOMBARDO
DAVID C.Y. CHEUNG
Assistant Counsel

November 1, 1995

RECEIVED
CLIENT PROTECTION
STATE OF NEW YORK

PERSONAL & CONFIDENTIAL

Paul Holbrook, Esq.
Marine Midland Bank
One Marine Midland Center
27th Floor
Buffalo, New York 14203

NOV 3 1995

ALBANY, NEW YORK

Re: Fred Gold, Esq. (deceased)
Account No. 008-81544-5
Index No. 022732/95
Our File No. M-7-95

Dear Mr. Holbrook:

Pursuant to our previous telephone conversations, I am enclosing copies of the Petition and Affirmations filed in the N.Y.S. Supreme Court, County of Queens, for an order directing that the funds in the above account be turned over to the Lawyers' Fund for Client Protection.

I have been informed that the return date of the petition will be December 6, 1995 and that the matter has been assigned to Judge Orin R. Kitzes (IAS Part 17).

As discussed, if you send me an affirmation indicating that Marine Midland is not opposed to the relief sought in the petition, I will file it with the Court on the return date.

Thank you for your attention in this matter.

Very truly yours,

S/C

David C.Y. Cheung

DC/bl
encl.

cc: Arthur J. McGee, Esq.

William R. Greenspan, Esq.

Fred Miller, Esq.
Lawyer's Fund for Client Protection

