

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of an Attorney IOLA Trust
Account for

J. EDMUND DE CASTRO, JR.,
Deceased.

VERIFIED PETITION

Index No. 2004-451

FILED
ACTIONS & PROCEEDINGS

PAID
CHECK CASH

DEC 09 2013

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:
CITY OF BUFFALO)

DEC 18 2013

**ERIE COUNTY
CLERK'S OFFICE**

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The Estate of J. EDMUND DE CASTRO, JR., by MELISSA S. DE CASTRO, Executor,
respectively shows that:

1. MELISSA S. DE CASTRO, the Executor of the Estate of J. EDMUND DE CASTRO, JR. (the "Decedent"), am a citizen of the United States, am over the age of 18 years and reside at 138 Lexington Avenue, Buffalo, New York 14222.
2. J. EDMUND DE CASTRO, JR. ("Decedent") died testate, a resident of Erie County, New York on the 19th day of October, 2003.
3. Letters Testamentary were issued to MELISSA S. DE CASTRO by the Erie County Surrogate's Court on the 23rd day of October, 2003 and remain in full force and effect, a copy of which is attached to and made a part of this Petition as Exhibit A.
4. Prior to his death, the Decedent was a duly licensed and practicing attorney with an office in Erie County, New York. The Decedent maintained his practice until his death.
5. There had been discovered among the Decedent's papers, bank statements for an account maintained at Fleet Bank, entitled "J. EDMUND DECASTRO, JR. ATTORNEY AT LAW IOLA ACCOUNT", and bearing the account number 0093 8045 2631.

6. Upon information and belief, said account was used by the Decedent as his attorney Trust Account while he was engaged in the practice of law.

7. By Order of the Erie County Supreme Court, JAECKLE FLEISCHMANN & MUGEL, LLP, was appointed as the Successor Signatory of said account on March 26, 2010 and directed to transfer the funds held at Bank of America (successor by merger with Fleet National Bank) Account No. 0093 8045 2631 to the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP.

8. Bank of America Account No. 0093 8045 2631 was closed on April 29, 2010 and \$22,438.88 was deposited in the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP.

9. A search of the Decedent's attorney trust account monthly bank statements from January 30, 1998 through the Decedent's date of death has been conducted as well as an extensive search of the Decedent's books, records and files in an effort to discover the identity of the true owners of such funds.

10. Upon the search of the Decedent's attorney trust account records, \$2,700.51 was paid out of said account to clients who owned money in said account, leaving a total of \$19,738.37 in the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP. Copies of the Releases from said clients are attached to and made a part of this Petition as Exhibit B.

11. No further inquiries have been received from any former clients of the Decedent regarding monies held in escrow nor has JAECKLE FLEISCHMANN & MUGEL, LLP been able to locate other possible owners of the funds.

12. It is believed that the monies in the account may have been for disbursements subsequently made by the Decedent out of his office account but not transferred to said account, or the Decedent's own funds which had been placed in the account to maintain a balance and to act as a hedge against a dishonored check that might be negotiated through the account. However, no such claim is asserted to the funds.

13. The monies held in the account do not, per se, belong to the Estate of the Decedent and are not included in the estate since the monies represent client funds.

14. Pursuant to Judiciary Law of New York, 22 NYCRR 1200 and Rule 1.15(f) of the New York Rules of Professional Conduct, this Court may order JAECKLE FLEISCHMANN & MUGEL, LLP to turn over the funds being held in the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP to the Lawyers' Fund for Client Protection for safeguarding and eventual payment to persons who are entitled thereto.

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

WHEREFORE, it is respectfully requested that the Court grant an Order pursuant to Judiciary Law of New York, 22 NYCRR 1200 and Rule 1.15(f) of the New York Rules of Professional Conduct directing that JAECKLE FLEISCHMANN & MUGEL transfer the funds presently held in its attorney trust account to the Lawyers' Fund for Client Protection;

AND JAECKLE FLEISCHMANN & MUGEL, LLP be relieved of any further responsibility with respect to the funds held in its attorney trust IOLA account at JAECKLE

At a Special Term Part 11 of the Supreme Court of the State of New York, held in and for the County of Erie, at 25 Delaware Avenue, the Court House, Buffalo, New York on the 13th day of December, 2013.

PRESENT: Hon. Shirley Troutman, J.S.C
Justice Presiding

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SUPREME COURT : COUNTY OF ERIE

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ORDER

Index No. 2004-451

ERIE COUNTY
CLERK'S OFFICE

The Petitioner, MELISSA S. DE CASTRO, having presented this Court with an application duly verified on the 3rd day of December, 2013, pursuant to the Judiciary Law of New York, 22 NYCRR 1200 and Rule 1.15(f) of the New York Rules of Professional Conduct, for an Order directing that the funds maintained in the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP, be deposited into the Lawyers' Fund for Client Protection for safeguarding and eventual payment to persons who are entitled thereto;

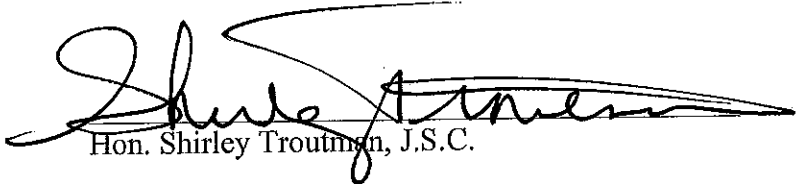
NOW, on the motion of JAECKLE FLEISCHMAN & MUGEL, LLP, Lindsay M. McKenna, Esq., of Counsel, attorneys for said Petitioner, it is

Ordered that JAECKLE FLEISCHMANN & MUGEL, LLP, transfer the funds presently held in the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP, amounting to approximately \$19,738.37, into the Lawyers' Fund for Client Protection, for safekeeping and eventual payment to persons who are entitled thereto, pursuant to the Judiciary

Law of New York, 22 NYCRR 1200 and Rule 1.15(f) of the New York Rules of Professional Conduct, and it is further

Ordered that JAECKLE FLEISCHMANN & MUGEL, LLP be, and hereby is, relieved of any further responsibility with respect to said funds held in the attorney trust IOLA account at JAECKLE FLEISCHMANN & MUGEL, LLP upon the transfer of the funds into the Lawyers' Fund for Client Protection.

ENTERED:

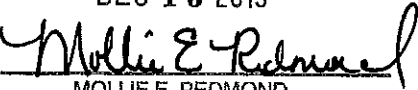

Hon. Shirley Troutman, J.S.C.

GRANTED: December 13, 2013

Court Clerk

GRANTED

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DEC 13 2013
BY 
MOLLIE E. REDMOND
COURT CLERK