



Oregon

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M E M O R A N D U M

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February 10, 2009

To: Governor Theodore R. Kulongoski
Secretary of State Kate Brown
State Treasurer Ben Westlund

From: Louise Solliday, Director

Subject: Estates Program Annual Report

The Department is pleased to report that in calendar year 2008, the Estates Program has maintained the case level experienced in 2007. The following report outlines the history of the program, recent activities contributing to the growth of the program and goals for the program's future.

HISTORY

Under Oregon's Constitution, the Department is responsible for managing the estates of those residents who die both without a will and without any known heirs. The Department acts as personal representative and immediately seeks to reunite the estate with legal heirs whenever possible. Estates managed by the Department range from those of decedents who are destitute to those with multi-million dollar assets. There is a strong fiduciary responsibility to the beneficiaries and to the Common School Fund if an estate escheats.

By statute, anyone having knowledge of the death of a resident individual who has died without leaving a will and with no known heirs is required to notify the Department within forty-eight hours of the death. In the past, this statute was widely overlooked and notice was not provided. Legislation during the 2003 Legislative Session brought these statutes to the forefront. Continuing education on statutory changes furthered this knowledge among major segments of the professional community such as attorneys, funeral homes and medical examiners. As a result, the Department has seen a substantial increase in the number of estates reported.



Within five days after notification, Department staff must respond to the estate to determine the existence and value of assets and to safeguard them against loss. Dual custody is mandatory whenever Department staff is in the presence of estate assets in order to ensure the integrity of the assets at all times. A physical search is performed of the residence and other personal effects in an effort to locate an heir or a will. If an heir or a will is located, the estate is turned over to those named. If neither is found, the Department administers the estate through probate. While at the residence, Department staff collects personal photographs and items of possible sentimental value for heirs, should they be located at a later date. Personal identification, financial records and investment documents are secured and protected in the custody of the Department. The Department makes arrangements for the respectful handling of the decedent's remains.

The process of probate consists of identifying and liquidating all assets, satisfying creditors and completing the legal process. Property of the estate, both real estate and personal, may be liquidated by public auction for the purpose of generating funds for the payment of debts and administrative expenses. Administrative costs and expenses incurred by the Department in the course of administering the estate are reimbursed to the Department out of the funds of the estate as a priority item. The remaining funds are escheated to the Common School Fund where they are held for a period of not more than ten years. The proceeds permanently escheat to the Common School Fund at the end of the ten-year period providing that no heirs have come forward.

Millions of dollars pass through the Estates Program each year and large amounts are reunited with rightful heirs found by Department staff. Without the efforts of the Department, the assets of many estates would fall into the hands of those who have no legal right to claim them.

PROGRAM STATISTICS

In calendar year 2008, the Estates Program opened a total of 156 new cases averaging around 3 new cases per week. Missing heir cases continue to number about 105 cases per calendar year and are in addition to estates directly administered by the Department. Two years ago, the program experienced significant growth and case numbers have been sustained at a high level since then. Growth is leveling out, but expected to continue slowly as the Department conducts additional outreach.

The value of funds escheated to the Common School Fund in calendar year 2008 from all cases was \$962,306; an increase of 12% over the prior year.

The Department recouped \$124,840 in administrative costs from estates processed during 2008. Administrative costs consist primarily of staff time and travel expenses of each case. This figure is up significantly from the \$74,000 collected in 2007. As of November 2008, the estates team successfully recovered nearly one-half of their operating expenses by the recuperation of administrative costs.

The estates team uses a variety of means to search for and locate heirs prior to initiating probate and throughout the probate process. Efforts range from a simple Web-based people or records search to the return address on an old Christmas card. During 2008, the team located heirs in 31 cases.

Over the past few years, the Department has raised the awareness of landlords, funeral homes, medical examiners, attorneys, judges and others concerning the Department's role in these types of estate cases. This outreach, as well as recent legislation focusing on the program, has resulted in the increase in the number of cases managed by the Department. Specifically, the demonstrated ability of the Department to assist these agencies and entities in locating heirs and handling assets of these estates has resulted in a significant increase in the reporting of cases in cities and outlying areas along and near the southern I-5 corridor, which has become a popular retirement destination.

Additional outreach is still planned in the central, south-central and eastern regions of Oregon where compliance with estate laws has traditionally been low. Staff anticipates the outreach efforts will result in continued growth of the program; however the rate of growth should slow due to the smaller population in those areas. The population is aging and becoming more mobile. Fewer families live in the same town or even in the same state for prolonged periods, but are scattered around the nation and the world. These factors will continue to impact the program in the future.

GOALS AND OBJECTIVES

Internally:

- **Program reorganization and streamlining:** At present, we are focusing on improving internal control measures and record keeping.
- **Training:** The estates team participated in the annual probate practice and procedure seminar organized by the Oregon Law Institute of Lewis & Clark Law School in March of 2008 in Portland, Oregon. This training has proven to be very effective in improving the team's skills in investigation, estate handling and probate law.

- Assessment of administrative charges provided by statute: Statute provides a hierarchy for payment of administrative costs related to estate management. In the past, the Department has not captured the large portion of these costs as a reimbursable expense. Since our last report, we have implemented a system to recapture our costs. We are seeking to further refine this process to make the program more self-supporting. We are seeing progress in this area with a \$55,000 increase in fee collection this year over the previous year, with a 47% rate of recovery as of November 2008.

Externally:

- Outreach: The Department continues its efforts to plan and conduct educational seminars throughout the state to bring better reporting compliance statewide. The seminars are aimed at professionals who are generally first on the scene in death situations. Additionally, members of the estates team have made themselves available to civic groups and other organizations of general interest to give informational talks about the program and reporting requirements.