

FILED
1/3/2024 11:42 AM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2014P002200
Calendar, 11

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – PROBATE DIVISION**

ESTATE OF MARJORIE G. IVY,)
)
 Deceased.)
 -----)
)
 CHRISTOPHER IVY,)
 Independent Administrator,)
)
 Petitioner,)
 v.)
)
 ESTATE OF MORDECHAI FASKOWITZ,)
)
 Respondent.)

Case No. 2014 P 002200-25809152
Supplemental Proceeding
Calendar 11
Judge Terrence J. McGuire
Courtroom 1814

PETITIONERS’ MOTION FOR TURNOVER AND DISTRIBUTION OF FUNDS

Petitioner, Christopher Ivy, the Independent Administrator of the Estate of Marjorie G. Ivy (the “Petitioner” or “Independent Administrator”), for his Motion for Turnover and Distribution of Funds, states as follows:

A. Procedural Background

- 1) On April 6, 2023, this Court entered what Petitioner contended was a final and appealable order concluding on page 25 that: “Mordechai Faskowitz intentionally and unjustifiably killed Marjorie Ivy. Accordingly, Mordechai and his estate are barred under the Slayer Statute from receiving any benefit or distribution from the Estate of Marjorie Ivy.” (the “April 6, 2023 Order”)
- 2) Because the Respondent, Estate of Mordechai Faskowitz (the “Faskowitz Estate”) did not timely file either a posttrial motion or a Notice of Appeal, on June 29, 2023, Petitioner presented a Motion to Distribute Funds.

FILED DATE: 1/3/2024 11:42 AM 2014P002200

- 3) On July 28, 2023, the Faskowitz Estate filed a Notice of Appeal with the Illinois Appellate Court.
- 4) On September 15, 2023, the Independent Administrator filed Appellee's Motion to Dismiss the Appeal in its Entirety for Lack of Jurisdiction as Untimely, or, in the Alternative, to Dismiss the Appeal from the July 21, 2022 Agreed Order as not Subject to Appellate Review (the "Motion to Dismiss the Appeal for Lack of Jurisdiction")
- 5) On September 29, 2023, the Faskowitz Estate filed its Response to the Motion to Dismiss the Appeal for Lack of Jurisdiction.
- 6) On November 7, 2023, the Appellate Court entered an Order granting the Motion to Dismiss the Appeal for Lack of Jurisdiction. A copy of November 7, 2023 Order is attached as Exhibit 1.
- 7) The Faskowitz Estate did not file either a Motion for Rehearing or a Petition for Leave to the Illinois Supreme Court.
- 8) On December 26, 2023, the Clerk of the Illinois Appellate Court forwarded the Appellate Court's Mandate that the final judgment of the Appellate Court was entered on November 7, 2023, which Order granted the Administrator of the Estate of Marjorie Ivy's Motion to Dismiss the Faskowitz Estate's Appeal for Lack of Jurisdiction. (the Mandate, which was received by the Clerk of the Circuit Cour of Cook County on December 28, 2023, is Attached as Exhibit 2).
- 9) Accordingly, this Court's April 6, 2023 Order that: "Mordechai and his estate are barred under the Slayer Statute from receiving any benefit or distribution from the Estate of Marjorie Ivy," is now indisputably a final and non-appealable Order.

B. Request for Turnover and Distribution of Funds

10) In light of all of the foregoing set forth in Section A of this Motion, the Independent Administrator of the Estate of Marjorie G. Ivy requests that this Court order that:

(a) Bank of New York Mellon Company/Dreyfus turnover all funds in its custody, possession and control in the name of or belonging to Marjorie G. Ivy, Marjorie G. Ivy TOD and/or the Estate of Marjorie G. Ivy, including, but not limited to, Account Nos. xxxx-xxxxxx2359 and xxxx-xxxxxx3708¹, to the Client Fund Account of Jeffrey C. Blumenthal Chartered for the distribution of (i) sixty-five percent (65%) of said proceeds to the Estate of Marjorie G. Ivy's administrative attorneys, Trostin, Kantor & Esposito, LLC, for further distribution to the Estate of Marjorie G. Ivy or the successor beneficiaries named after Mordechai Faskowitz, and (ii) thirty-five percent (35%) of said proceeds to the litigation attorneys for the Independent Administrator of the Estate of Marjorie G. Ivy pursuant to the agreement between the Independent Administrator and said litigation attorneys;

(b) Vanguard Voyager Select Services of The Vanguard Group, Inc. turnover all funds in its custody, possession and control in the name of or belonging to Marjorie G. Ivy, Marjorie G. Ivy TOD and/or the Estate of Marjorie G. Ivy, including, but not limited to, Account Nos. xxxx-xxxxxx3616, xxxx-xxxxxx3616, xxxx-xxxxxx3616, xxxx-xxxxxx2326, xxxx-xxxxxx4116, xxxx-xxxxxx4116, xxxx-xxxxxx4116, xxxx-xxxxxx4116,² to the Client Fund Account of Jeffrey C. Blumenthal Chartered for the distribution of (i) sixty-five

¹ Pursuant to Illinois Supreme Court Rule 138, only the last four-digit numbers of each listed account are set forth in this publicly filed Motion for Turnover and Distribution. A copy of the Motion for Turnover and Distribution with the account numbers listed will be submitted to the court in-camera.

² Only the first two Vanguard account numbers are listed on the Vanguard Statement for Marjorie Ivy as of June 30, 2023. However, because the Estate of Ivy's estate administrative attorneys had the other accounts listed as possible Marjorie G. Ivy Vanguard accounts, they are listed in this Motion to be as inclusive as possible.

percent (65%) of said proceeds to the Estate of Marjorie G. Ivy's administrative attorneys, Trostin, Kantor Esposito, LLC, for further distribution to the Estate of Marjorie G. Ivy or the successor beneficiaries named after the removal of the primary beneficiary, Mordechai Faskowitz; and, (ii) thirty-five percent (35%) of said proceeds to the litigation attorneys for the Independent Administrator of the Estate of Marjorie Ivy pursuant to the agreement between the Independent Administrator and said litigation attorneys;

- (c) The Clerk of the Circuit Court of Cook County turnover the \$38,531.89, plus applicable claim interest, if any, deposited with the Clerk of the Circuit Court, pursuant to the May 23, 2014 Order entered in that case known as *New York Life Insurance and Annuity Corporation v Mordechai Faskowitz and Adrienne Russ*, docketed as Case No. 14 CH 01211 in the Circuit Court of Cook County ("Case No. 14 CH 01211") (a copy of which Order is attached hereto as Exhibit 3), which Case No. 14 CH 01211 was subsequently consolidated with this case, to the Client Fund Account of Jeffrey C. Blumenthal Chartered for the distribution of (i) sixty-five percent (65%) of said proceeds to the Estate of Marjorie G. Ivy's administrative attorneys, Trostin, Kantor & Esposito LLC for further distribution to the Estate of Marjorie G. Ivy or the successor beneficiaries named after the removal of the primary beneficiary, Mordechai Faskowitz; and, (ii) thirty-five percent (35%) of said proceeds to the litigation attorneys for the Independent Administrator of the Estate of Marjorie G. Ivy pursuant to the agreement between the Independent Administrator and said litigation attorneys;

Wherefore, the Petitioner, Christopher Ivy, as Independent Administrator of the Estate of Marjorie G. Ivy, respectfully requests that this Court enter an Order granting the relief set forth in Section B, paragraphs 10(a), (b) and (c) of this Motion.

Dated: January 3, 2024

Respectfully Submitted,

Petitioner, Christopher Ivy
As Independent Administrator of the
Estate of Marjorie G. Ivy,

By: /s/ Jeffrey C. Blumenthal
One of his Attorneys

Jeffrey C. Blumenthal, Esq. (Atty ID #62740)
Michael D. Richman, *Of Counsel*
JEFFREY C. BLUMENTHAL CHARTERED
2970 Maria, Suite 223
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jeffrey@jcblawyer.com
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michael@jcblawyer.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on January 3, 2024, he served a copy of **PETITIONERS' MOTION FOR TURNOVER AND DISTRIBUTION OF FUNDS**, electronically: on Gregg Garafalo, Garafalo Law Group, 161 North Clark Street, Suite 1600, Chicago, Illinois 60601 by sending the same to garafolo@glgfirm.com; Probate@glgfirm.com; and on Colleen E. McNulty by sending the same to mcnulty@glgfirm.com.

/s/ Jeffrey C. Blumenthal

Gregg A. Garafalo, Esq.
Colleen E. McNulty, Esq.
GAROFALO LAW GROUP
161 North Clark Street, Suite #1600
Chicago, IL 60601
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garafolo@glgfirm.com
Probate@glgfirm.com
mcnulty@glgfirm.com

No. 1-23-1365

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

Miriam Solo, as Independent Executor)
of the Estate of Mordechai Faskowitz,)
)
Petitioner-Appellant,)
)
v.)
)
Christopher Ivy, as Independent)
Administrator of the Estate of)
Marjorie Ivy,)
)
Respondent-Appellee.)

ORDER

This matter coming to be heard on Appellee's Motion to Dismiss Appeal for Lack of Jurisdiction, and Appellant's Response having been considered, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

The Motion to Dismiss Appeal is ALLOWED for Lack of Jurisdiction.

/s/ Nathaniel R. Howse, Jr.

JUDGE

/s/ Margaret S. McBride

JUDGE

/s/ David W. Ellis

JUDGE

ORDER ENTERED

NOV 07 2023

DATE: APPELLATE COURT FIRST DISTRICT





CLERK'S OFFICE
APPELLATE COURT FIRST DISTRICT
STATE OF ILLINOIS
160 NORTH LA SALLE STREET, RM S1400
CHICAGO, ILLINOIS 60601

December 26, 2023

Honorable Iris Y. Martinez
Richard J. Daley Center
Room 1001
Chicago, IL 60602

FILED

DEC 28 2023

IRIS Y. MARTINEZ
CLERK OF CIRCUIT COURT

RE: MIRIAM SOLO v. CHRISTOPHER IVY
General No.: 1-23-1365
County: Cook County
Trial Court No: 14P2200

Dear Honorable Martinez:

Attached is the Mandate of the Appellate Court in the above entitled cause.

We are sending the attorneys of record a copy of this letter to inform them that the mandate of the Appellate Court has been filed with you.

Thomas D. Palella
Clerk of the Appellate Court

c: Garofalo Law Group
Jeffrey Charles Blumenthal
Kerkonian Dajani LLP





CLERK'S OFFICE
 APPELLATE COURT FIRST DISTRICT
 STATE OF ILLINOIS
 160 NORTH LA SALLE STREET, RM S1400
 CHICAGO, ILLINOIS 60601

FILED

DEC 28 2023

IRIS Y. MARTINEZ
 CLERK OF CIRCUIT COURT

STATE OF ILLINOIS, FIRST DISTRICT APPELLATE COURT MANDATE

Panel: Honorable David Ellis
 Honorable Nathaniel Roosevelt Howse, Jr.
 Honorable Margaret S. McBride

BE IT REMEMBERED, that on 7th day of November, 2023 the final judgment of said Appellate Court was entered of record as follows:

ESTATE OF: MARJORIE IVY,
 DECEASED.

General No: 1-23-1365
 County/Agency: Cook County
 Trial Court/Agency Case No.: 14P2200

.....

 MIRIAM SOLO, AS INDEPENDENT
 EXECUTOR OF THE ESTATE OF
 MORDECHAI FASHOWITZ,
 Petitioner-Appellant,

v.

CHRISTOPHER IVY, AS
 INDEPENDENT ADMINISTRATOR OF
 THE ESTATE OF MARJORIE IVY,
 Respondent-Appellee.

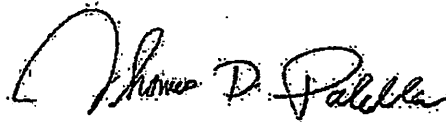
In accordance with Supreme Court Rule 368, this Mandate is issued. As Clerk of the Appellate Court and keeper of the records, files and Seal thereof, I certify that the foregoing is a true statement of the final Order of said Appellate Court in the above cause of record in my office. Pursuant to Supreme Court Rule 369, the clerk of the circuit court shall file the Mandate promptly.



IN WITNESS WHEREOF, I hereunto set my hand and affix the Seal of the Illinois Appellate Court this 26th day of December, 2023.

FILED DATE: 1/3/2024 11:42 AM 2014P002200

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Clerk of the Appellate Court

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

Miriam Solo, as Independent Executor)
of the Estate of Mordechai Faskowitz,)
)
Petitioner-Appellant,)
)
v.)
)
Christopher Ivy, as Independent)
Administrator of the Estate of)
Marjorie Ivy,)
)
Respondent-Appellee.)

ORDER

This matter coming to be heard on Appellee's Motion to Dismiss Appeal for Lack of Jurisdiction, and Appellant's Response having been considered, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

The Motion to Dismiss Appeal is ALLOWED for Lack of Jurisdiction.

/s/ Nathaniel R. Howse, Jr.

JUDGE

/s/ Margaret S. McBride

JUDGE

/s/ David W. Ellis

JUDGE

ORDER ENTERED

NOV 07 2023

DATE: APPELLATE COURT FIRST DISTRICT

FILED DATE: 1/3/2024 11:42 AM 2014P002200

IN THE CIRCUIT COURT OF COOK COUNTY

NEW YORK LIFE INSURANCE AND)
ANNUIITY CORPORATION,)

Plaintiff,)

v.)

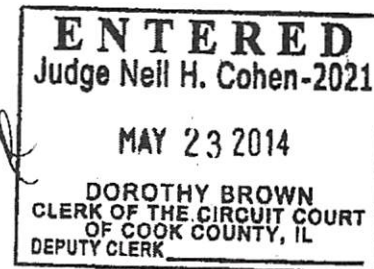
MORDECAI FASKOWITZ, and)
ADRIENNE RUSS,)

Defendants.)

Civil Action No.

14 CH 01211

48209



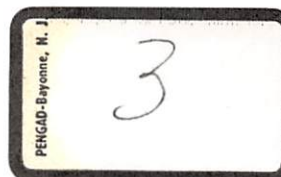
ORDER

Upon motion to deposit the funds at issue and dismiss Plaintiff New York Life Insurance And Annuity Corporation (the "Company"), the Company seeks an Order directing it to distribute to the Clerk of Court proceeds in the amount of \$38,531.89, representing the death benefit payable in connection with Individual Annuity number N3 124 098 (the "Annuity"), which was issued by the Company to Marjorie Ivy, plus applicable claim interest, if any, (the "Death Benefit"), for deposit into an account with the Court; discharging the Company of all liability and dismissing with prejudice all claims against the Company relating to the Annuity and/or the Death Benefit; and appointing a Guardian ad Litem to represent the interests of Mordecai Faskowitz in this action or directing that no such guardian is required to be appointed; and the Court having considered the application of counsel, and for good cause having been shown;

IT IS ORDERED as follows:

1. That the Company shall distribute to the Clerk of this Court a check in the amount of \$38,531.89, plus applicable claim interest, if any, representing the full amount of the Death Benefit payable under the Annuity;

2. That the Clerk of this Court shall deposit the Death Benefit distributed to the Clerk of this Court by the Company into an account and maintain the same pending further orders of the Court;



FILED DATE: 1/3/2024 11:42 AM 2014P002200

3. That upon deposit of the Death Benefit with the Court, the Company shall be, and hereby is, dismissed from the above-captioned action with prejudice and discharged from any and all liability to Defendants Mordecai Faskowitz and Adrienne Russ (collectively, the "Adverse Claimants") relating to the Annuity and/or the Death Benefit, and for the Adverse Claimants to be, and hereby are, permanently enjoined from making any further actual or implied claims, demands and causes of action, asserted or unasserted, express or implied, foreseen or unforeseen, real or imaginary, suspected or unsuspected, known or unknown, liquidated or unliquidated, of any kind or nature or description whatsoever, that Adverse Claimants, jointly and severally, ever had, presently have, may have, or claim or assert to have, or hereinafter have, may have, or claim or assert to have, against the Company with respect to the Annuity and/or the payment of the Death Benefit due thereunder;

4. That any and all claims against the Company relating to the Annuity and/or the Death Benefit be, and the same hereby are, dismissed with prejudice and without costs to any party; and

5. That a Guardian Ad Litem shall / shall not be appointed to Defendant Mordecai Faskowitz: *Shall Not*

ENTERED:

Dated: 5-23-14
[Signature]
Judge Judge's No.

WELDON-LINNE & VOGT
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Chicago, Illinois 60603
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312/236-5161 (fax)