

Analysis of Financials for Informal Application Prep

Asset and liability information allows the Registrar to determine whether or not the estate will be suitable for the Informal Probate process and is required by Trust and Probate Court Rule 408(a). Although, we don't expect the applicant to have exact figures at this point in the proposed administration we do expect truthful and reasonable figures. Information that is too vague can result in your application being denied for the informal process and loss of the filing fee.

Be specific about the information needed from the client prior to your meeting so they come prepared with whatever documentation they possess to support the numbers you are going to put on the application.

What is the Registrar thinking when they look at the section Assets and Liabilities?

- Separate out exempt versus non-exempt property?
- Does the estate have an exempt homestead? Minn. Stat. §524.2-402
- Are there interested parties to whom statutory allowances will be paid?
- Will the estate be solvent?
- Why is there such a large dollar amount in the personal property section?
- Did the decedent really have 6 figure debt? Always a red flag that the estate maybe insolvent.
- If there are non-probate assets and very limited "probate" asset liquidity, could the non-probate assets be used to pay the unsecured debt to avoid a formal probate?

Filling in some troublesome blanks:

Real Estate – use the figure from the latest property tax statement "estimated market value".

Do **not** subtract the amount of any mortgages or other "secured" debt attached to the real estate.

Do **not** include real estate outside of Minnesota.

If there is zero (-0-) equity in the real estate, make a note of that on the application.

If there is Minnesota real estate outside Hennepin County, make sure that county will accept letters issued by the Registrar to transfer title to the real estate.

Personal property – the standard forms have a variety of pre-labelled spaces. You may add other categories, for example, IRA's.

The category labelled "other" seems to create the most confusion. Generally when the Registrar sees a dollar amount in this section the Registrar thinks – miscellaneous personal property such as jewelry, household goods, automobiles, motorcycles, assets with titles.

The Registrar looks at the dollar amount in this section with respect to payment of statutory allowances. Is there enough miscellaneous personal property to cover the statutory allowances to spouse and children? Minn. Stat. §524.2-403

If NO, then we look at the other categories of personal property from which dollars can be drawn to satisfy the statutory allowances.

The category labelled “cash” does NOT exclusively mean loose change or bills lying around the decedent’s residence. It may include those monies but it means liquid assets such as checking accounts, savings accounts, certificates of deposit. Assets that are readily available once letters have issued to pay expenses of administration and claims against the estate.

Indebtedness – the figure you put in this section is critical to the analysis.

The indebtedness figure is UNSECURED DEBT ONLY!!

Including secured debt in the indebtedness section can result in the Registrar thinking this is an insolvent estate.

INSOLVENT ESTATES CANNOT BE PROBATED INFORMALLY.

The Registrar is weighing unsecured debt against non-exempt probate assets. Will there be enough monies to pay all creditors that are known at this time. The level of the priority creditor’s claim also plays a role when there are limited non-exempt probate assets. Minn. Stat. §524.3-805. Statutory allowances to adult children are ONLY paid if the first three creditors in the Priority of Claims Statute can be paid in FULL. Minn. Stat. §524.2-403(f)