

Administration d.b.n. Proceeding Checklist

(see Surrogate's Court Form ADM/DBN-1, rev. 7/98)

This Checklist is provided for your convenience while completing the petition and the checklist should not be returned

NOTE: An Administrator De Bonis Non (d.b.n.) may be appointed to complete the administration of an estate if the administrator dies, resigns, or for any other reason is removed from office. The procedure for the appointment of an administrator d.b.n. shall be the same as an application for letters of administration (SCPA §1007).

NOTE: According to the Opinion of the State Comptroller 89-49, dated 11/27/1989, the fee to be charged on an administration d.b.n. proceeding is \$45.00.

Check that the office of the administrator is vacant [SCPA §1007(1)]:

1. death certificate
2. proof of revocation
3. resignation (NOTE: the Court may require an accounting before permitting a fiduciary to resign)

NOTE: The Court may refuse to issue Letters of Administration d.b.n. if distribution is possible pursuant to SCPA §2207.

**Fill In All Areas On All Pages of Petition - Also Mark When Not Applicable Where Necessary
Check All Forms To Make Sure Venue Is Correct - Appropriate County Is Listed**

PET #	DESCRIPTION	YES	NO
	Secure the estate file folder		
	Is the captioned name exactly the same as it appears on the original proceeding?		
	Make sure that the file number is on the petition and all other supporting documents and should be the same file number as the original proceeding		
1a.	<p>Is the petitioner eligible to act and qualify pursuant to SCPA §1001?</p> <p>(a) surviving adult spouse of decedent (b) adult child (c) adult grandchild (d) parent (e) brother or sister (f) any other person who is a distributee and who is eligible to qualify (g) others as set forth in SCPA §1001(2) to (9)</p> <p>Check citizenship</p> <p>Has the interest of the petitioner been checked and specified?</p>		

PET #	DESCRIPTION	YES	NO
1b.	<p>Is the proposed administrator an attorney?</p> <p>If so, has a statement been provided pursuant to 22NYCRR 207.16(e)?</p> <p><i>NOTE: Latter will need an accounting (see 22NYCRR 207.52)</i></p>		
2.	<p>Check date original letters were issued; insert name of original administrator and date of death, resignation or removal</p>		
3.a- 3.e	<p>Check value of unadministered property</p> <p>Check estimated gross rents of real property (if any) for period of eighteen (18) months</p> <p>Check that any pending or contemplated causes of action on behalf of the decedent are listed and complete information is given</p> <p><i>NOTE: If inconsistent with amount shown in original administration proceeding, an explanatory affidavit may be required.)</i></p>		
4.	<p><i>NOTE: Distributee - Any person entitled to take/share in property under EPTL §4-1.1 and 4-1.2. (SUBMIT A FAMILY TREE IF REQUIRED BY THE COURT)</i></p> <p>Has the number of survivors been listed?</p> <p>Has “NO” been inserted in all prior classes?</p> <p>Has an “X” been inserted in all subsequent classes?</p> <p><i>NOTE: If alleged that the decedent was survived by no distributee or only one distributee or where the relationship of distributees to the decedent is grandparents, aunts, uncles, first cousins or first cousins once removed, has an Affidavit of Heirship been submitted - see Court Rules §207.16(c). NOTE: If there are any deceased distributees, provide a copy of the death certificate or provide the date of death.</i></p>		
5a.	<p>Check that the names, relationship, domicile, mailing address and citizenship of all distributees are listed in the petition</p> <p><i>NOTE: Form ADM/DBN-3 has to be submitted from all adult competent persons listed under 5a having a right to letters equal or prior to petitioner or a citation will be issued. Use ADM/DBN-4 form for all companies listed. All persons with an inferior right to letters should receive a notice of application (forms ADM/DBN-5 & 6). ALL INTERESTED PARTIES MUST CONSENT THAT BOND BE DISPENSED WITH OR FILING OF BOND WILL BE REQUIRED.</i></p> <p><i>NOTE: If any have died subsequent to the death of the decedent, a statement should be included as to whether a legal representative has been appointed, and if so, name and title of such representative, his/her address and the court which issued letters. If no legal representative has been appointed, the distributees of such post-deceased distributee must be listed giving names, relationship, domiciles, mailing addresses and citizenship.</i></p>		

PET #	DESCRIPTION	YES	NO
5b.	<p>Same as 5a. above but are persons under disability</p> <p>Are infants and persons under disability listed with required information?</p> <p>Are Schedules A, B, C and/or D attached?</p> <p><i>NOTE: FOR INFANTS (Attach copy of birth certificate if required by court)</i></p> <p><i>NOTE: IF THERE IS A COURT-APPOINTED GUARDIAN (FIDUCIARY) SUBMIT PROOF OF APPOINTMENT.</i></p> <p><i>NOTE: IF THERE ARE UNKNOWN, the following proof has to be submitted: affidavit showing that diligent efforts have been made to locate unknown distributees or distributees whose whereabouts are unknown [Court Rules §207.16(d)]</i></p> <p><i>“DILIGENT SEARCH” requires extensive research, e.g.:</i></p> <p><i>cemetery and marriage records; telephone books; conversation with other distributees, neighbors, etc.; records of varied Surrogate’s Court; military records; Bureau of Immigration & Naturalization; Social Security Administration; Bureau of Vital Statistics; Department of Motor Vehicles; Bureau of the Census; City directories; Internet</i></p> <p><i>NOTE: PURSUANT TO SCPA §1003(4)</i></p> <p><i>Jurisdiction over unknown distributees or distributees whose whereabouts are not known need not be secured prior to the issuance of letters, but is required by publication of citation in the accounting proceeding. The Decree granting Administration must so state.</i></p>		
6.	Verify that there are no other persons interested in this proceeding other than those already mentioned.		
7.	Make sure outstanding debts or funeral expenses are listed. If none, so state.		
	<p>Under WHEREFORE Clause: has all relief requested been checked and completed?</p> <p>Is petition dated, signed, verified, properly notarized (including proper jurat and expiration date of notary’s commission)?</p> <p>Is Combined Verification, Oath and Designation signed?</p> <p>does it set forth proposed fiduciary’s physical address?</p> <p>Is proposed fiduciary a bank? (submit a Consent and Designation)</p>		
	<p>Is attorney’s name, address and phone number listed?</p> <p>Is Part 130 Certification completed by attorney or self-represented party?</p> <p>if <u>NOT</u>, has a separate certification as to Part 130 signing requirements been included?</p>		
If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?			

Official Forms for this type of proceeding are:

- ✎ ADM/DBN-1 Petition for Letters of Administration d.b.n. (7/98)
- ✎ ADM/DBN-2 Citation (make sure full relief requested is included in citation) (7/98)
- ✎ ADM/DBN-3 Waiver of Citation, Renunciation and Consent to Appointment of Administrator d.b.n. (Individual) (10/04)
- ✎ ADM/DBN-4 Consent to Appointment of Administrator d.b.n. (Corporation) (10/04)
- ✎ ADM/DBN-5 Notice of Application for Letters of Administration d.b.n. (7/98)
- ✎ ADM/DBN-6 Affidavit of Mailing Notice of Application for Letters of Administration d.b.n. (7/98)
- ✎ ADM/DBN-7 Notice to the Consul General (7/98)
- ✎ ADM/DBN-8 Affidavit of Service of Citation (Adult) (7/98)

COMMENTS AND COURT NOTES

If the assets exceed \$30,000 and one or more distributees refuse to consent that the Administrator serve without bond (or are unable to consent by reason of their being under disability) it may be necessary to obtain a fiduciary bond. See SCPA Article 8.

Proofs of Service of Citation must be filed with the Court at least two (2) working days before the return date.

Guardian Ad Litem will be appointed on or before the return day of process for all unknowns and persons under disability (SCPA §403).

Letters will not be delivered until Notice of Application (*if required*) and Mailing Affidavit are filed.

Review carefully instructions to paragraphs 5a and 5b of the Petition and be sure interested parties are listed in the correct places.

Documents signed by Power of Attorney (Provide certified copy of POA and comply with Section 13-2.3 EPTL and 207.48 Uniform Rules).

Check to be certain all documents are properly acknowledged.

THIS MATERIAL IS PROVIDED FOR INFORMATIONAL/TRAINING PURPOSES ONLY. – It is intended for use in conjunction with review of the applicable statutes and rules of the Surrogate’s Court and the Surrogate’s Court Operations Manual.