

Uncooperative Beneficiaries

By Yahne Miorini, LL.M.

When dealing with uncooperative beneficiaries, the personal representative may petition the court for injunction. Va. Code Ann. §64.1-162 provides that the personal representative has a “duty to recover from whomsoever is in possession, or from the person interested in the estate, the amount of such tax payable by the persons interest in the estate.”

A beneficiary cannot compel the personal representative to pay any legacy or make any distribution in the first six months of the appointment unless it is otherwise specifically provided and the beneficiary executes a refunding bond agreement with surety¹.

If the beneficiary is uncooperative for receiving the assets, the personal representative may file in the

proper clerk’s office a proper refunding bond with security². With this procedure, the personal representative will be property against any claim unless the personal representative had notice of such claim. Finally, if the beneficiary refuses or cannot be found, the personal representative can petition the court for an order permitting the settlement of the final account. Usually the funds for the missing beneficiary will be set aside in a certificate of deposit in the beneficiary’s name. The personal representative sends a notice of the certificate of deposit to the last known address or best known address of the beneficiary. The personal representative will then be able to finalize the accounts. If the missing beneficiary never makes a claim, he/she will eventually be presumed dead as

provided under Va. Code Ann. §64.1-105 *et seq.* which will permit distribution to other beneficiaries or residuary legatees. If so, the recipient will have to post a refunding bond without surety upon condition that he/she will deliver the funds or property without interest to the reappeared missing beneficiary upon demand of such beneficiary³.

¹ Va. Code Ann. §64.1-177

² Va. Code Ann. §64.1-178

³ Va. Code Ann. §64.1-112