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P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: judgewatch.org

Elena Ruth Sassower, Coordinator

December 18, 2001

Sylvia Hamer, Records Access Officer
New York State Attorney General
120 Broadway
New York, New York 10271
BY FAX & MAIL: 212-416-8026 (10 pages)

Shelly Brown, Records Access Officer
New York State Comptroller
Alfred E. Smith State Office Building, 6th Floor
Albany, New York 12236
BY FAX & MAIL: 518-473-8940 (10 pages)

RE: F.O.I.L. Request

Dear Ms. Hamer and Ms. Brown:

Pursuant to the Freedom of Information Law (F.O.I.L.) [Public Officers Law, Article VI], request is made to inspect and copy publicly-accessible documents relating to joint investigations of former New York State Attorney General Robert Abrams and former State Comptroller Edward Regan into public administrators appointed by Surrogate Court judges, conducted in the second half of the 1980's and early 1990's.

According to newspaper articles, these joint investigations resulted in issuance of reports. Among these:

- (1) a November 1987 report. This is reflected by the enclosed front-page of the November 25, 1987 New York Times article, "*Thousands of Estates in New York are Mismanaged, a Report Says*". According to a front-page New York Law Journal article, possibly from the same day:

December 18, 2001

"the investigations were handled for the Attorney General's Office by the Charities Bureau under the supervision of Deputy Chief Assistant Attorney General Alan D. Aviles and Assistant Attorney General Pamela Mann, chief of the Bureau; and for the Comptroller by Deputy Comptroller Robert H. Attmore, Audit Director John Walsh and Chief Auditor David Hancox."

(2) an April 1988 report. This is reflected by the enclosed April 7, 1988 article in Newsday, "*Estate Mismanagement Charged: State Officials Call Settlement Delays in Nassau Extraordinary*".

(3) a July 1992 report. This is reflected by the enclosed front-page July 24, 1992 New York Times article, "*Report is Critical of Estate System in New York City*", and enclosed July 25, 1992 Newsday article, "*Estates Undermined*".

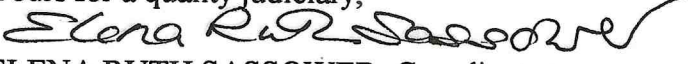
Please specifically include in this F.O.I.L. request any documents relating to proposals and recommendations for reform and improvement stemming from these investigations and reports that the State Attorney General and State Comptroller directed to our State's Executive, Legislative, and Judicial Leaders, as well as documents pertaining to ongoing oversight of public administrators and Surrogates' Court by the Offices of the Attorney General and State Comptroller.

Additionally, please identify whether there are any publicly-accessible documents pertaining to investigations by the State Attorney General and State Comptroller, jointly or individually, into court-appointed receivers.

Pursuant to F.O.I.L. [Public Officers Law §89.3], your response is required within five business days of receipt of this written request.

Thank you.

Yours for a quality judiciary,


ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures

The New York Times

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NEW YORK, WEDNESDAY, NOVEMBER 25, 1987

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Thousands of Estates in New York Are Mismanaged, a Report Says

By MICHAEL FREITAG

The New York State Attorney General and the State Comptroller yesterday accused New York City's public administrators of "significant deficiencies and questionable practices" in handling the estates of people who die without wills.

In calling for "major reforms" in the system, they also said the Manhattan Public Administrator and his counsel, through "profound mismanagement and a dereliction of duty," had delayed settlement of thousands of estates worth millions of dollars and should resign or be removed from office. However, they did not accuse them or the other public administrators of corruption.

Attorney General Robert Abrams and Comptroller Edward V. Regan made the accusations at a Manhattan news conference in which they announced the findings of their 18-month joint investigation of the state's public administrator system.

Their 55-page report provides an overview of the practices in the city's five public administrators' offices. A second report covering the state's six other public administrators, in suburban and upstate counties, will be issued later, they said.

A public administrator, appointed by

the county surrogate court, handles estates of people who have left no will or whose will names an executor who cannot or does not want to serve. The public administrator or a counsel he appoints typically makes burial arrangements, collects and manages the dead person's assets and settles the estate. Proceeds from estates are forwarded

Continued on Page B4, Column 1

Abrams-Regan Report

Continued from page 1, column 4

makes burial arrangements, collects and manages the decedent's assets," and ultimately distributes the estate to heirs or deposits unclaimed funds with the Comptroller.

In the report, the Attorney General and the Comptroller called for two major reforms in the system: (1) removing the power of appointment from the County Surrogates, providing for appointment by the municipal government; and (2) abolishing the present system of allowing PAs to retain private counsel and accountants, and substituting a salaried staff of lawyers and accountants.

The report concluded that because the current system results in unnecessary expense to estates and inadequate oversight of the administrators' operations, the administrators should be appointed by the municipal government that is ultimately responsible for their operations.

"An integration of the power of appointment with New York City's existing obligation to fund its PA offices" would "squarely place the ultimate authority and responsibility for a properly run New York City PA system in the executive branch of the local government that controls the PA office budgets."

Such a change would also "allow the City's Department of Investigations to investigate any allegations of misconduct."

How System Works

Public administrators operate with outside counsel, appointed in Manhattan, Brooklyn and Queens by the Surrogate, and in The Bronx and Staten Island by the public administrator. The oversight role of the Surrogates was said to be unclear, and the situation further complicated because public administrators frequently appear before the Surrogates. The present system "places the Surrogate in the dubious position of 'hiring' a public official who is a frequent party before him and whose conduct — as the Surrogate's appointee and subordinate — may be the subject of legal proceedings that the Surrogate must determine," the report stated.

Moreover, the report criticized the size of legal fees paid to private counsel and blamed the counsel for the frequent and extensive delays in estate settlement found in some counties.

Delays in settling estates were said to be worse in Manhattan and Staten Island, as was the inadequacy of recordkeeping.

"While the PAs in the Bronx, Kings and Queens complete administration

of most estates within one or two years, the New York County PA has at least 1,000 open estates that have been under his administration for more than six years, many for extraordinary periods of time ranging up to fifty-one years," according to the report.

Often, there has been no effort to locate heirs even where information was available, and neglect and delay has caused estates "to incur unnecessary commissions, legal fees, fiduciary income taxes and accounting fees," the report stated.

Funding Described

The report described funding of public administrators as follows:

New York City annually appropriates approximately \$1.3 million to fund the administrators' offices, ranging from \$450,000 in New York County to \$109,000 for Richmond County. A commission, assessed on a sliding scale between 2 percent and 5 percent depending on the size of the estate, is paid to the City of New York, reimbursing it for roughly the amount the City appropriates to the five public administrators.

Additional funds are provided to the administrators by fees charged to the estates. In 1986, these fees amounted to \$115,000 in New York County, \$25,000 in The Bronx, \$50,000 in Kings County, \$85,000 in Queens and \$2,400 in Richmond County.

Moreover, "the various counsel appointed to provide legal services to the five PAs in New York City charged estates total fees of more than \$3 million in 1985, ranging from \$1.7 million in New York County to \$28,000 in Richmond County." Generous fees were awarded to counsel even in those estates where counsel were responsible for extraordinary delays, it was said.

For example, in one New York County estate, totalling over \$900,000, the PA's counsel was paid a legal fee of more than \$53,000, even though the legal services performed were very limited and routine, and even though the counsel had delayed eleven years without justification before filing the court papers necessary to close out administration of the estate, the report stated.

The investigation was handled for the Attorney General by the Charities Bureau under the supervision of Deputy Chief Assistant Attorney General Alan D. Aviles and Assistant Attorney General Pamela Mann, chief of the Bureau; and for the Comptroller by Deputy Comptroller Robert H. Attmore, Audit Director John Walsh and Chief Auditor David Hancox.

NYCN Ant-page

Abrams-Regan Report Critical Of City Public Administrators

Attorney General Robert Abrams and State Comptroller Edward V. Regan yesterday released a strongly worded report on the system of public administrators in New York City, calling for major reforms in all five boroughs.

The strongest criticism was directed at the Manhattan office, where, the report concluded, "nearly every aspect of operations" was "characterized by profound mismanagement and a dereliction of duty."

Resignations Asked

The Comptroller and Attorney General urged that, because of inexcusable neglect of hundreds of estates that have "languished for years, and egregious mismanagement," the New York County Public Administrator Bruno Cappellini, and his counsel, Joseph T. Arenson, should resign or be removed from office.

While the "scope of neglect and mismanagement in New York County is singularly alarming," the Attorney General and the Comptroller said in the report, there were "significant deficiencies and questionable practices in each of the other four PA offices." The investigation was said to have revealed a pattern of "unconscionable delays, inadequate record-keeping systems, failure to account for funds and property, and questionable estate fees."

The report listed a lack of internal controls and improper or absent recordkeeping and accounting systems, including the following:

- The warehouse where decedents' property is stored was in "utter chaos," and no inventory records were maintained for eight years. Security is virtually absent, and burglaries are not infrequent, it was said.

- Neither New York nor Richmond County public administrators could identify or determine the number of pending cases.

- New York County cash records were said to be so inadequate that thousands of dollars cannot be traced to the estates from which they originally came.

- In Manhattan, The Bronx, and Brooklyn, decedents' money is found in improper accounts, making it questionable that the money will ever reach those to whom it rightfully belongs.

Mr. Regan and Mr. Abrams said the report was the first of two to be issued following their joint review of the operations of public administrators across the state. The second report will cover upstate PAs' offices.

According to the report, public administrators, who currently control 4,000 open estates with nearly \$106 million in assets, are authorized by law to administer estates when no qualified individual is available. "The public administrator typically

Continued on page 3, column 1

Newsday 4/7/88

Estate Mismanagement Charged

State officials call settlement delays in Nassau extraordinary

By Alvin E. Bessent

Public administrators systematically mismanaged the estates of people who die without wills in Nassau County, resulting in extraordinary delays in settling the estates and assets being sold off inappropriately or allowed to languish, state officials charged yesterday.

In some instances, the Office of the Public Administrator carried estates for as long as 15 years and in some others allowed appraisers who had been hired to estimate the value of jewelry and other valuables to then buy the property based on the appraised value, said State Attorney General Robert Abrams and Comptroller Edward V. Regan.

The office — the latest in a series to be subject to an operational review by the two state agencies — also unnecessarily took on small estates involving Social Security payments, extracting fees until the assets were exhausted, of-

ficials said. And it placed about \$1 million in assets in bank accounts that paid no interest, a move that, in effect, kept the estates from gaining about \$50,000 in 1985, the officials said.

"All in all, it's a sad record calling for immediate improvement," Regan said. "In Nassau County, it isn't a case of helping these people . . . it's a matter of taking advantage of them."

Public administrators are authorized to administer the estates of people who die without wills when there is no one else available or willing to do it, officials said. The office makes burial arrangements, collects and manages assets, pays creditors, collects debts, files tax returns while at the same time trying to find heirs. Assets from unclaimed estates eventually are turned over to the state comptroller's unclaimed funds account, officials said.

As an example of mismanagement, state officials yesterday cited one case pending in Nassau since 1969, in which

a decedent's house was damaged by fire before it could be sold, no insurance claim was filed and despite information regarding the identity of possible heirs available for about 10 years, the case remains open with assets of more than \$112,000. Local officials said the house was uninsured when the owner died and the case remained open in hopes of locating heirs.

The charges leveled yesterday during a news conference in Mineola were based on a two-year review of the operation of public administrators in five suburban counties, including Nassau and Suffolk. State officials said the Suffolk County public administrator's office was generally well managed.

During the news conference, Regan and Abrams made no allegations of criminal wrongdoing in Nassau. But, based on two-year reviews of offices in Nassau, Suffolk and three other suburban counties, they recommended legislation that would transfer authority to

appoint public administrators to county executives.

"Ultimately in a government operation you must be able to point the finger at somebody who runs for office," Regan said.

Currently, the responsibility for the operation of public administrators' offices is spread among the Surrogate Court judge, who appoints the administrator; the county, which funds the administrator's office; and the state, where unclaimed money ultimately ends up.

Surrogate C. Raymond Radigan, who appoints the public administrator in Nassau, agreed that there have been management problems in the administrator's office. But most already had been corrected, he said.

He disagreed with the review's findings on the number of delinquent estate cases in Nassau. He also pointed

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Mismanagement Of Estates Charged

ESTATES from Page 3

out that the office has used only interest-bearing accounts for the past 18 months, that inventories now are done immediately though sometimes not officially recorded for some time, and that appraisers are no longer allowed to buy items they appraised.

The office is in transition with a new director and deputy director set to begin work April 22, the office set to move to new quarters near the surrogate in the old district courthouse in Mineola and a push toward computerization already under way, he said.

"We definitely want better management. We want them closer . . . and we want them computerized so we can watch them," Radigan said.

The Nassau office is funded by the county. The 13-person operation currently has about 700 active cases and \$6.3 million on deposit in various types of interest-bearing bank accounts, officials said.

Salvatore Oddo, 70, Nassau public administrator for 17 years before he retired March 1, could not be reached for comment. His voluntary retirement had nothing to do with the allegations of mismanagement, Radigan said. Newly appointed administrator John C. DiCocco and deputy Richard T. Kerins will not begin work until April 22, Radigan said.

Radigan said that the attorney general and the state comptroller should have been keeping closer tabs on the operation of administrators' offices. He said that when they launched the operational review, state officials waited two years before pointing out problems that could have been easily corrected. "We wish they'd told us of their findings right away rather than giving us a report on April 4 and having a press conference April 6," Radigan said.

Radigan said the suggested legislation would not solve the problem. "The problem isn't who makes the selection; the problem is supervision," he said. Radigan said he and other surrogates in the state have recommended the formation of a commission composed of public administrators and state officials with responsibility to monitor the activity of public administrators. Other recommendations are provisions for annual accountings, immediate inventories and a ban on private sales of assets in favor of large, multi-county auctions.

County officials have not seen the report, but will review the allegations and recommendations, said Ken Cynar, spokesman for County Executive Thomas Gulotta.

The report released yesterday included reviews of the offices in Onondaga County, Monroe County and Westchester County in addition to Nassau and Suffolk. Management problems were uncovered in Onondaga, Monroe and Westchester. And in Suffolk, where the office generally was given high marks, stocks, bonds and jewelry in some estates weren't properly inventoried, officials reported.

Yesterday's report followed a similar review of public administrators in New York City which was released in November and pointed out "far more egregious" problems, Abrams said. The Manhattan public administrator resigned in February and an investigator for the Queens public administrator was indicted for grand larceny as a result of problems uncovered in those operational reviews, Abrams said.

Larry Light contributed to this report.

7/24/82
nyv

REPORT IS CRITICAL OF ESTATE SYSTEM IN NEW YORK CITY

MISMANAGEMENT IS CITED

Fund Administrators Are Found
to Hold Millions Improperly
— Second State Inquiry

By RALPH BLUMENTHAL

More than four years after a state report found widespread mismanagement and theft in the handling of certain estates in New York City, a follow-up investigation has found that the problems remain largely unabated and in some cases have worsened.

The estates at issue are those in which there was either no will or a will whose terms could not be executed. Thus, they fell under the supervision of public administrators, appointed officials assigned by the Surrogate's Court in each of the city's five boroughs.

The new investigation by the State Attorney General and the State Comptroller found problems ranging from long, unnecessary delays in the handling of such estates to public administrators intentionally misinforming the court, to the use of estate funds to pay office and personal expenses, including computers, staff bonuses and automobile insurance. In one case, a draft version of the report said, staff members who had been accused of stealing property from the apartments of people they believed to be dead were allowed to continue work.

Unnecessary Fees

One of those staff members, inspecting a Brooklyn estate valued at more than \$1 million, reported finding property worth only \$130. The report said that public administrators' investigators suspiciously reported recovering "little or no property from estates of high value."

The report portrayed a kind of feeding frenzy on the estates. In Queens and the Bronx, the report said, an unnecessary 3 percent fee was levied on estates when real estate was sold at public auction to pay brokers who accompany prospective buyers. In Queens and Brooklyn, lawyers who already receive 6 percent commissions on real-estate sales received extra fees.

The report said all five public administrators purchased services on behalf of estates without competitive bidding

Estates Still Mismanaged, Study Says

Continued From Page A1

to assure the lowest price.

As in the past, the findings are expected to be made available to the criminal-justice authorities. Some criminal charges grew out of the last report.

In 1990, the city's five administrators controlled \$135.8 million in estates, with Manhattan accounting for the largest share, \$81 million.

'Little Has Changed'

"We found that little has changed," the report concluded. "As a result estate assets continue to be at risk."

The draft version of the latest report by the State Attorney General and the State Comptroller concluded that few changes suggested by the last investigation had been adopted.

It also said that, as before, the deficiencies in Manhattan, where the bulk of the big estates were concentrated, "were particularly alarming."

There, the report found, the administrator was "improperly" holding more than \$4 million in estate funds in special office accounts under her control. As before, the inquiry found that many cash accounts were so poorly maintained that the office could not say where the money came from or to whom it belonged.

Call for Legislation

The two statewide officials, Attorney General Robert Abrams and Comptroller Edward V. Regan — a Democrat and a Republican — renewed their 1987 appeal for legislative changes, including a removal of the public administrators from the sway of the patronage-ridden Surrogate's Court, to which the administrators owe their appointments and before which they practice.

The latest critical report comes as Federal investigators are pressing a separate investigation into operations of the Surrogate's Court, including the public administrators' offices. Yesterday, a politically connected Manhattan lawyer, Melvyn Altman, was indicted on Federal racketeering, mail fraud and money-laundering charges in what the United States Attorney in Manhattan, Otto G. Obermaier, called a continuing investigation that identified the Surrogate's Court as a "racketeering enterprise" used by the defendant.

Many of the sharpest criticisms in the report were directed at the Manhattan Public Administrator, Ethel J. Griffin, who was appointed in 1988 when her predecessor resigned in the wake of the previous revelations.

The report said that by officially reporting to the court "under oath" that the fees had been paid she "misrepresents the actual status of legal-fee payments on sworn court submissions."

Ms. Griffin, in an interview, denied any wrongdoing and said her actions were with the knowledge and approval of the two Surrogates, Eve Preninger and Renee R. Roth.

The draft report did not include responses from the public administrators who received copies months ago. But several of the administrators, reached yesterday by telephone, challenged the findings.

According to the report, legal fees to the lawyers total more than \$3 million a year, an amount it termed "excessive." Several hundred thousand dollars go to a few private accountants. All the money comes out of the estates. The report said the same services could be provided more economically by salaried lawyers and accountants.

The report also criticized the administrators for how they invested cash receipts, contending that the administrators deposited the principal and accrued interest from estate accounts into office accounts to pay for things like computer equipment, staff bonuses and personal car insurance.

But one administrator, Samuel Plotkin, from Brooklyn, said in an interview that because he assumed all his other automobile expenses, he was permitted by his surrogate to

pay his \$1,378 annual car insurance premium out of estate funds.

In some cases, the report said, conditions have worsened since the last review. In 1985, it said, the Manhattan administrator had \$1.2 million in "house accounts" for payment of office expenses. By 1990, this had grown to almost \$4.2 million.

This practice, it said, had cost estates hundreds of thousands of dollars in lost interest.

In 1989 and 1990, the report said, the deputy public administrator in Manhattan had improperly drawn checks of \$750 and \$1,200, payable to himself from estate accounts, for staff bonuses.

And it said of its review in Manhattan that it again found that the public administrator "still holds many passbooks belonging to closed estates, does not always attempt to locate

Mr. Plotkin, the Brooklyn Administrator, challenged that finding in the interview, saying they were let go. Charges against one were later dropped, he said, and the other had his conviction overturned by an appellate court.

The Bronx Public Administrator, Robert S. Black, criticized the report for unfairly lumping the Bronx, with what he said were fewer shortcomings, with the other boroughs.

The Staten Island Administrator, John D. Kearney, who handled relatively few cases, said he had made some of the changes sought by the state officials.

The Queens Administrator, Mindy Trepel, did not respond to a message left with her office.

'No Valid Reasons'

In Manhattan, the report found some large estates that had languished for decades "with no valid reasons."

The Surrogate's Court — one elected judge in each of the boroughs, except Manhattan, which has two — appoints guardians for minors and the mentally incapacitated, probates wills and appoints executors in cases where wills are absent or deficient. By its ability to award lucrative appointments, the court has traditionally wielded enormous influence and power.

The surrogate judges also appoint the public administrators, who hire lawyers to oversee the estates under the court's jurisdiction. The lawyers arrange funerals, collect and inventory the decedents' assets and distribute the proceeds to heirs they track down.

For this, the lawyers may charge fees equal to 6 percent of the value of each estate over \$10,000 and lesser fees for smaller estates. The administrators also take a sliding scale of commissions for their office expenses from each estate administered.

In the 1990 fiscal year, the latest year studied, the administrators' offices received a total of \$1.5 million from the estates.

Abrams and Regan renew their 1987 pleas for legislative changes.

beneficiaries and does not submit passbooks to banks with court papers, as required to close accounts."

'Questionable Disbursements'

In Brooklyn, the report said, the office made "a number of questionable disbursements" to an investigator who was later convicted of stealing property from a dead person's residence.

Even after that staff member and another investigator were charged with such thefts, the office did not dismiss, suspend or reassign them, the report said. Instead, the public administrator "allowed them to continue searching residences for one and a half years after their arrests," it said.

Lawyer Accused of Using Surrogate Court as Racket

By RONALD SULLIVAN

A Manhattan lawyer was charged yesterday in Federal court with stealing nearly \$1 million from three clients in what the Government called his use of Surrogate's Court "as a racketeering enterprise."

The lawyer, Melvyn Altman, was charged with racketeering, mail fraud, money laundering and witness tampering in stealing more than \$921,000 from three clients. The charges were a result of what Otto G. Obermaier, the United States Attorney in Manhattan, said was "an ongoing Federal investigation into allegations of criminal activity" in the Surrogate's Court in Manhattan.

Mr. Altman pleaded not guilty at his arraignment yesterday in Federal District Court and was released under \$75,000 bail. His lawyer, Michael Carey, said Mr. Altman had returned \$495,000 of the money in question.

He was the second lawyer to be charged with stealing from clients in Manhattan Surrogate Court. Last year, Vincent P. Catalpo was sentenced to 71 months in prison after he pleaded guilty to charges of tax evasion, mail fraud and money laundering in connection with clients assigned to him by the former Surrogate, Marie M. Lambert.

Mrs. Lambert, whose 13-year

career as Surrogate ended in 1990 when she reached the mandatory retirement age of 70, also assigned cases to Mr. Altman. She has never been identified by Federal officials as a primary target of the investigation.

According to the indictment, Mr. Altman, who was co-chairman of the Law Committee of the Manhattan Democratic organiza-

The theft of \$921,000 from three clients is charged.

tion in the 1970's, stole \$545,000 from the estate of David Harber in the early 1980's. Mr. Altman, who was executor of the estate, used the money for himself and for an investment in a theater company, the indictment said.

The indictment also accused Mr. Altman of stealing \$206,400 in 1984 from the bank account of Armando Corsini, who was declared mentally incompetent by the court, as well as \$170,000 from an antiques company in 1987.

If convicted, he could face more than 100 years in prison.

WEDNESDAY 7/25/92

Records
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Estates Undermined

By Leonard Levitt

STAFF WRITER

The city's five public administrators have squandered millions of dollars in assets of deceased New Yorkers through delays, mismanagement and excessive fees, a state report charges.

The report, issued by state Attorney General Robert Abrams and state Comptroller Edward Regan as a follow-up to one in 1987, concludes that the city's public administrators failed to institute reforms proposed in the earlier report and that in many instances conditions have actually worsened.

More than \$135 million in estate assets of deceased persons are at risk, the report says.

Public administrators, who are paid \$63,333 a year, take control of an estate when a person dies without a will or when a next of kin cannot be located. They are appointed by the Surrogate Court judges of each borough and are selected not on merit or legal expertise but through political connections, the report says. Bronx public administrator, Robert Black, for example, is not a lawyer but a former restaurant supply salesman and former president of an animal feed concern.

The earlier report by Abrams and Regan called for public administrators to be appointed by the municipality for which they work. A joint bill in Albany calling for that has been tabled every year since 1987 by the Legislature.

As of January, 1991, New York had 614 estates that were five or more years old, including 158 that were 10 or more years old and some dating back to the 1950s, the report said.

In one case, the estate of Donald R. Carey, one of the beneficiaries died during the public administrator's three-year failure to settle litigation, the report said. In another, the estate of

Bernard Stanton, the public administrator's failure to sell real estate in a timely manner reduced its value by two-thirds to three-quarters, the report said.

In 1987, the report said, investigators for the attorney general were able to locate, in a matter of hours, the sole heir of the Dorothea Booth estate which had languished in the Manhattan public administrator's office since 1965. Despite a delay of more than 20 years, the counsel, Joseph Arenson, demanded and received an inflated fee, which Manhattan Surrogate Court Judge Renee Roth awarded in full, the report said.

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