

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
In the Matter of the Estate

JANET WHALEN,

Deceased.

-----X

RECEIPT, RELEASE
and REFUNDING
AGREEMENT

File No. 2018-2050

KNOW ALL BY THESE PRESENT THAT:

WHEREAS, JANET WHALEN (the "Decedent"), died on March 3, 2018, a resident of New York County, New York, leaving a Will dated November 1, 2017 which was admitted to Probate by Decree of the New York County Surrogate's Court dated October 2, 2018 and which appointed RITA WHALEN (the "Executor") as Executor of the Estate of Janet Whalen (the "Estate"), in which capacity she continues to act; and

WHEREAS, the Executor has collected all of the known assets and income of the estate in the amount of \$873,046.70 which, after deduction of all known debts, expenses and credits in the amount of \$149,771.63, totals \$723,275.07 as of June 8, 2020; and

WHEREAS, Article THIRD (11) of the Decedent's Will bequeathed five (5%) percent of the residuary estate to MAGNOLIA CEMETERY, named in the Will as DEFUNIAK SPRINGS CEMETERY ("MAGNOLIA CEMETERY") for the care and maintenance of the MILES FAMILY PLOTS; and

WHEREAS, there were no U.S. Estate Taxes due and no U.S. Estate Tax return required to be filed, and there were no N.Y.S. Estate Taxes due and no N.Y.S. Estate Tax Return required to be filed as the gross estate was below the federal and New York State filing thresholds; and

WHEREAS, pursuant to section 2307 of the N.Y.S. Surrogate's Court Procedure Act, the Executor is entitled as calculated by statute to a fiduciary commission for her work administering the estate in the amount of \$30,188.40; and

WHEREAS, there are unpaid administrative expenses for the payment of the remaining legal fee in the amount of \$9,000.00 to Ronald Fatoullah & Associates; and

WHEREAS, the Executor is holding back a Reserve Fund of Ten Thousand Dollars (\$10,000.00) to cover final legal fees, final accounting fees, any taxes due, and any unanticipated contingencies, and any amounts remaining after said payments, if any, shall be paid to in proportion to its distributive share; and

WHEREAS, MAGNOLIA CEMETERY consents to the payment of the fiduciary commission of \$30,188.40 to the Executor, the payment of the remaining legal fee in the amount of \$9,000.00 to Ronald Fatoullah & Associates and the holding back of \$10,000.00 as a Reserve Fund by the Executor for a total amount of \$49,188.40; and

WHEREAS, that after deduction of the amount of \$49,188.40 from the total of \$723,275.07, the residuary of the estate is in the amount of \$674,086.67, of which the five percent share of MAGNOLIA CEMETERY totals \$33,704.33; and

WHEREAS, the Executor now desires to make a final distribution to MAGNOLIA CEMETERY in the amount of \$33,704.33; and

WHEREAS, MAGNOLIA CEMETERY agrees that the bequest shall be used only for the care and maintenance of the MILES FAMILY PLOTS and shall not be used for any purpose other than the care and maintenance of the MILES FAMILY PLOTS,

NOW THEREFORE, MAGNOLIA CEMETERY hereby acknowledges receipt of the amount of \$33,704.33 from the Executor, representing the full and complete distribution of its interest (less its interest in what remains of the \$10,000.00 Reserve Fund) from the ESTATE OF JANET WHALEN and RITA WHALEN as Executor and individually.

I represent and warrant:

1. That I am fully authorized to accept this bequest and to sign this Receipt, Release and Refunding Agreement on behalf of MAGNOLIA CEMETERY; that no voluntary or involuntary assignment, transfer or encumbrance has been made of all or any portion of this distribution; and
2. That I have reviewed the Accounting attached hereto and made a part hereof on behalf of MAGNOLIA CEMETERY and have been given the opportunity to examine the papers and statements of the Estate and to question the Executor and her attorneys concerning her acts as Executor and am satisfied that she adequately and correctly performed her duties in the administration of the Estate to date; and
3. That I understand that, if the Reserve Fund is insufficient to cover any further liabilities of the estate, the MAGNOLIA CEMETERY must refund all or part of the bequest if asked to do so by the Executor should this distribution turn out to be an overdistribution of the amount to which the MAGNOLIA CEMETERY is entitled at any time or upon settlement of the estate.

In consideration of the receipt thereof, I, on behalf of MAGNOLIA CEMETERY:

- (a) Remise, release and forever discharge the Executor of and from all claims and demands which MAGNOLIA CEMETERY may now have or may hereafter have against the Executor by reason of any acts or matters done or omitted to be done by her in connection with the administration of the Estate, including the distribution of the amounts distributed to MAGNOLIA CEMETERY by the Executor;
- (b) Agree to refund to the Executor upon demand, any portion of this payment which may exceed an amount distributable to MAGNOLIA CEMETERY in the event that upon the settlement of the Executor's final account, any portion of this amount is determined to be an overpayment to MAGNOLIA CEMETERY; and

(c) Further agree to waive the issuance and service of a citation and request the Surrogate's Court of the State of New York, New York County, to record this instrument as provided by law if at any time requested to do so by the Executor or by any other person having an interest in the Estate; and consent that a Decree be made settling the account of said Executor; and for the purposes of the laws of the State of New York, the Executor joins in the execution of this instrument as the accounting party. The Warranties and Representations made herein shall survive the execution hereof.

Those warranties and representations and the release and agreements made herein shall be binding upon MAGNOLIA CEMETERY, its successors and assigns, and shall inure to the benefit of and bind the Executor in her fiduciary and individual capacity.

IN WITNESS WHEREOF, the undersigned has executed this Receipt, Release and Refunding Agreement this 11th day of June 2020.

MAGNOLIA CEMETERY
named in the Will as DEFUNIAK SPRINGS CEMETERY

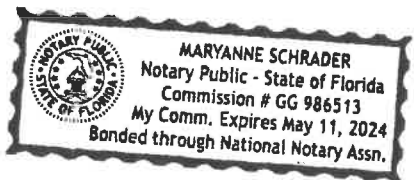
By: (Sign) Bob Campbell
 Print Name: Bob Campbell
 Print Address: 71 US Hwy 90 West
P.O. Box 685
DeFuniak Springs, FL 32435
 Print Tax ID: 59-6000306

ACKNOWLEDGMENT

STATE OF Florida)
) ss.:
 COUNTY OF Walton)

On the 11th day of June in the year 2020 before me personally appeared Bob Campbell, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and who, being duly sworn, did depose and say that (s)he resides at City of DeFuniak Springs and that (s)he is the Chairman of the Board of Cemetery Trustees of MAGNOLIA CEMETERY described in and which executed the foregoing instrument and acknowledged to me that he/she/they was duly authorized by MAGNOLIA CEMETERY to so sign and he/she executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, MAGNOLIA CEMETERY executed the instrument.

Maryanne Schrader
 NOTARY PUBLIC





SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PROBATE PROCEEDING, WILL OF
JANET WHALEN
a/k/a

NOTICE OF PROBATE
(SCPA 1409)

Deceased.

File No. _____

NOTICE IS HEREBY GIVEN THAT:

1. The Will dated November 1, 2017 and Codicil(s), if any, dated _____, of the above named decedent,

domiciled at 20 Clinton Street, #1-G, New York, New York 10002

County of New York, New York, has been/will be offered for probate in the
Surrogate's Court for the County of New York.

2. The name(s) and address(es) of the proponent(s) of said will is/are:

Proponent Information

Name

Rita Whalen

Domicile Address: Street and Number

200 Elsner Street

City, Village or Town

Syracuse

State

New York

ZIP Code

13203

Country

United States

Name

Domicile Address: Street and Number

City, Village or Town

State

ZIP Code

Country

Name

Domicile Address: Street and Number

City, Village or Town

State

ZIP Code

Country

Name

Domicile Address: Street and Number

City, Village or Town

State

ZIP Code

Country

Name

Domicile Address: Street and Number

City, Village or Town

State

ZIP Code

Country

3. The name and post office address of each person named or referred to in the petition who has not been served or has not appeared, or waived service of process, with a statement whether such person is named or referred to in the will as legatee, devisee, trustee, guardian or substitute or successor executor, trustee or guardian, and as to any such person who is an infant or an incompetent, the name and post office address of a person upon whom service of process may be made on behalf of such infant or incompetent, is as follows:

Substitute/Successor Executors and Trustees/Guardians/Legatees/Devisees/Other Beneficiaries

Name Edward Arrocha			
Mailing Address: Street and Number 155 East 2nd Street, #A			
City, Village or Town New York	State New York	ZIP Code 10009	Country United States
Legacy, Devise or Other Interest See Attachment 1		Fiduciary Status NONE	
Name Rita Whalen, Trustee of the Janet Whalen Pet Trust			
Mailing Address: Street and Number 200 Elsner Street			
City, Village or Town Syracuse	State New York	ZIP Code 13203	Country United States
Legacy, Devise or Other Interest See Attachment 2		Fiduciary Status Trustee of the Janet Whalen Pet Trust	
Name Theo Philip Benham (Philip Theo Venham under the will)			
Mailing Address: Street and Number 223 East X Street, Apt. A4			
City, Village or Town Deer Park	State Texas	ZIP Code 77536	Country United States
Legacy, Devise or Other Interest Specific bequest: \$25,000, contingent on proof of biological relationship		Fiduciary Status NONE	
Name Peter Kozlowski			
Mailing Address: Street and Number 1335 East 12th Street, Apt. 3E			
City, Village or Town Brooklyn	State New York	ZIP Code 11230-5818	Country United States
Legacy, Devise or Other Interest See Attachment 3		Fiduciary Status NONE	
Name Suzan Kornbluth			
Mailing Address: Street and Number 55 Teaberry Drive			
City, Village or Town Edison	State New Jersey	ZIP Code 08820	Country United States
Legacy, Devise or Other Interest Residuary bequest: 10%		Fiduciary Status Successor Executor	
Name Jan Schmidt			
Mailing Address: Street and Number 155 East 2nd Street, #3B			
City, Village or Town New York	State New York	ZIP Code 10009	Country United States
Legacy, Devise or Other Interest Residuary bequest: 10%		Fiduciary Status NONE	

Continued on next page.

Substitute/Successor Executors and Trustees/Guardians/Legatees/Devisees/Other Beneficiaries (continued)

Name
Arthur Rivers

Mailing Address: Street and Number
155 East 2nd Street, #3B

City, Village or Town New York	State New York	ZIP Code 10009	Country United States
Legacy, Devise or Other Interest Residuary bequest: 10%			Fiduciary Status NONE

Name
Bonnie Hoag

Mailing Address: Street and Number
148 Stanton Road

City, Village or Town Shushan	State New York	ZIP Code 12873	Country United States
Legacy, Devise or Other Interest Residuary bequest: 5%			Fiduciary Status NONE

Name
Castle Of Dreams Animal Rescue (Castle-Of-Dreams Animal Rescue under the will)

Mailing Address: Street and Number
Castle of Dreams Animal Rescue, PO Box 739

City, Village or Town Keyport	State New Jersey	ZIP Code 07735	Country United States
Legacy, Devise or Other Interest Residuary bequest: 5%			Fiduciary Status NONE

Name
New York State Attorney General

Mailing Address: Street and Number
28 Liberty Street

City, Village or Town New York	State New York	ZIP Code 10005	Country United States
Legacy, Devise or Other Interest Statutory			Fiduciary Status None

Name

Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
Legacy, Devise or Other Interest			Fiduciary Status

Name

Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
Legacy, Devise or Other Interest			Fiduciary Status

Name

Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
Legacy, Devise or Other Interest			Fiduciary Status

Legatees/Devises/Other Beneficiaries under Disability

Name Alexis Benham (Alexis Venham under the will)	Date of Birth August 21, 2004	Age 13
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Mailing Address: Street and Number
WHEREABOUTS UNKNOWN

City, Village or Town	State	ZIP Code	Country
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Status
Specific bequest: \$25,000, contingent on proof of biological relationship
(If Infant or Incompetent) Name of Person for Service

Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
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Name	Date of Birth	Age
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Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
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Status
(If Infant or Incompetent) Name of Person for Service

Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
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Name	Date of Birth	Age
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Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
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Status
(If Infant or Incompetent) Name of Person for Service

Mailing Address: Street and Number

City, Village or Town	State	ZIP Code	Country
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Dated: 7/10/18

[NOTE: Complete Affidavit of Mailing. If serving infant 14 years of age or older, list mail to infant as well as parent or guardian.]

<p>Ronald Fatoullah & Associates Firm</p> <p>60 Cutter Mill Road, Suite 507, Great Neck, New York 11021 Address of Attorney</p>	<p>Yan Lian Kuang-Maoga Print Name of Attorney</p> <p>(516) 466-4422 Telephone</p>
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Attachment

Attachment 1

Legacy, Devise or Other Interest

Personal property bequest: Ruby Whalen, Chihuahua; Specific bequest: \$20,000 FBO Ruby Whalen; Residuary bequest: 15%

Attachment 2

Legacy, Devise or Other Interest

Personal property bequest: Elvis Whalen, African Grey parrot; Personal property bequest: Nyro Whalen, Gold Cap Conure parrot; Specific bequest: \$20,000 FBO Elvis Whalen and/or Nyro Whalen

Attachment 3

Legacy, Devise or Other Interest

Specific bequest: All paintings, photographs, literary works, music and other works of art created by Janet Whalen, and all intellectual property rights thereon; Residuary bequest: 10%