

7/28/2003 N.Y.L.J. 22, (col. 5)

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Decisions

DECISIONS

Queens County Surrogate's Court

Surrogate Nahman

ESTATE OF FLORENCE BROWN, deceased In this discovery proceeding, respondent Robert B. Kress was directed to show cause why he should not attend the inquiry and be examined as to funds which belong to this estate, and to deliver to the Administrator of the estate all estate funds which are the lawful property of the estate of Florence Brown.

The respondent Robert B. Kress who is incarcerated has failed to personally appear for the inquiry. His Guardian ad Litem advised the Court that even if he were to appear, he would not file an answer and he would assert his Fifth Amendment Constitutional privilege against selfincrimination.

This matter was then set down for an inquest.

Based upon the evidence adduced at the inquest in which the Guardian ad Litem participated, the Court finds that respondent, Robert B. Kress, converted the sum of \$16,793.00 from the estate of Florence Brown, and that said sum is now in the possession of Robert B. Kress. Accordingly, Robert B. Kress is directed to turn over the sum of \$16,793.0 plus interest at the rate of nine (9 percent) per cent. from December 8, 2000 to the Administrator of the Estate of Florence Brown forthwith.

The branch of the petition directing that American Manufacturer Mutual Insurance Co., Surety Division of Kemper National Insurance Company, as surety for Robert B. Kress, be directed to pay the Estate of Florence Brown the sum of \$16,793.00 plus interest at nine (9 percent) per cent. from December 8, 2000 is granted as follows:

In the event there is no payment by Robert B. Kress within ten days of the date of the decree, American Manufacturer Mutual Insurance Co. Surety Division of Kemper National Insurance Company is directed to pay the Estate of Florence Brown the sum of \$16,793.00 plus interest at a rate of nine (9 percent) per cent from December 8, 2000.

Settle Decree, American Manufacturer Mutual Insurance Co., Surety Division of Kemper National Insurance Company, and the Guardian ad Litem .

The Clerk of the Court is directed to mail a copy of this decision to the Public Administrator of Queens County, American Manufacturer Mutual Insurance Co., Surety Division of Kemper National Insurance Company, and the Guardian ad Litem.

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