

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

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Letters of Administration c. t. a., Will of

**WILLIAM BROWN a/k/a WILLIAM LEE BROWN,
Deceased.**

DECISION

File No. 1856/C-2014

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J O H N S O N, S.

In this proceeding, Malinda Makeba Brown (hereinafter the petitioner), has petitioned for appointment as administrator c. t. a. of this estate. Jurisdiction is incomplete. Incident to her application, the petitioner has also applied for letters of temporary administration. No objections have been interposed to this application.

On December 3, 2013, William Lee Brown (hereinafter the decedent) died survived by five children. On August 6, 2014, the decedent's will was admitted to probate in this court and Cynthia Brown (hereinafter Brown) was granted letters testamentary. In his will, the decedent left his estate to his five children in equal shares.

On January 11, 2016, Pamela Brown (one of the beneficiaries under the decedent's will) petitioned for an order compelling Brown to account. On March 22, 2016, Brown filed a petition for an order compelling the estate's former attorney, Robert Washington, Esq., to, *inter alia*, turn over papers and documents belonging to the estate.

Both the proceeding seeking to compel an accounting and the turnover proceeding appeared on this Court's calendar on April 21, 2016. During the course of the proceedings, it came to this Court's attention that

Brown had defaulted in defending an action for specific performance against corporate real property owned by this estate pending in the Supreme Court. In a Decision and Order dated April 22, 2016, this Court (1) suspended the letters testamentary previously issued to the petitioner; (2) appointed the Public Administrator of Kings County (hereinafter the Public Administrator) as the temporary administrator to administer the estate's assets that included real property; (3) directed Brown to turn over all estate assets and documents in her possession and control to the Public Administrator; (4) directed Brown to account within 30 days of the order and (5) as the letters testamentary previously issued to Brown were suspended, marked Brown's turnover proceeding off of this Court's calendar.

Where the court anticipates a delay in the proceedings, letters of temporary administration may be issued for the administration and management of estate assets (SCPA 901). The completion of jurisdiction will necessarily result in a delay in the issuance of letters in this proceeding and the record shows that a fiduciary is required to preserve the real property in this estate and to ensure the timely filing of estate tax returns. Moreover, the appointment of the Public Administrator in this Court's Decision and Order dated April 22, 2016 was without prejudice to an application by an interested party.

While the court has little discretion in the statutorily mandated appointment of eligible distributees in an administration proceeding,

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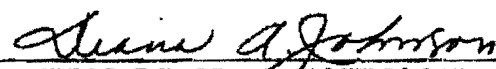
appointment of a temporary administrator is in the sound discretion of the surrogate (*Estate of Tiffany*, NYLJ, Jul. 20, 2000 at 30, col 3 [Sur Ct, Westchester County]). Unlike in the selection of an administrator, no class of persons is entitled to a priority in the selection of temporary administrator (*Matter of McGuire*, 47 Misc2d 158 [Sur Ct, Nassau County 1965]).

Based upon the circumstances in this proceeding, this Court, in the exercise of its discretion, appoints the petitioner, Malinda Makeba Brown, as the temporary administrator of this estate. Letters of temporary administration shall issue to Malinda Makeba Brown upon duly qualifying according to law including the filing of a bond in the sum of \$275,000. The temporary administrator is hereby restrained from collecting or administering any estate assets over the sum of \$275,000. The temporary administrator is restrained from compromising any cause of action or collecting the proceeds of a judgment therefrom without further order of the court. The temporary administrator is further restrained from selling, transferring, mortgaging or in any manner encumbering any real property in this estate (including any real property owned by 769 Washington Avenue Realty Inc. and any other company or corporation in which the decedent held an ownership interest) without further order of the court. The letters of temporary administration issued pursuant to this Decision shall be valid for six months from the date of the Order signed simultaneously herewith. Inasmuch, as an interested party has come

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forward seeking appointment as the temporary fiduciary herein pursuant to the Decision and Order dated April 22, 2016, the letters of temporary administration previously granted to the Public Administrator are hereby revoked.

Order signed.


HON. DIANA A. JOHNSON
Surrogate

Dated: Brooklyn, New York
October 13, 2016