

ASSOCIATE SURROGATE'S COURT CLERK SAMPLE QUESTIONS

This test guide provides at least one sample question for each subject area listed. The questions shown below are for illustrative purposes only. They are examples of the different question types and formats that candidates may encounter on the multiple-choice examination. Questions that appear on the actual examination vary in difficulty and may be easier or more difficult than the questions illustrated below. This test guide provides the correct answer for each sample question presented. You should study these in order to understand how the correct or best answers were determined.

Sandra died owning real property equally with her thirty-year-old son, Jim, as joint tenants. The real property is located in New York State, and is valued at \$100,000.00. The contents of the house, including furniture and personal items were owned by Sandra. The contents of the house have been appraised for \$9,000.00. Sandra also died owning a \$5,000.00 promissory note, with no interest payments, owed by her friend, Tom, which was payable on demand, or due on Sandra's death if not demanded earlier. Tom has not paid any part of the amount due on the note. Sandra also owned a \$2,500.00 bank account, which was her only other asset. Which of the following is/are true?

1. Jim may administer Sandra's estate as a small estate, with the authority as a voluntary administrator to maintain an action or proceeding to enforce the promissory note and recover the amount due under the note;
2. Jim may administer Sandra's estate as a small estate, with the authority to sell the contents of the house for a reasonable value in cash;
3. Jim may not administer Sandra's estate as a small estate, because the property exceeds the statutory amount;
4. Jim may not administer Sandra's estate as a small estate, because she owned an interest in real property.

- A. 1 only, but not 2, 3, or 4
- B. 1 and 2, but not 3 or 4
- C. 2 only, but not 1, 3, or 4
- D. 3 and 4, but not 1 or 2

The best answer to this sample question is B. The real property was owned in joint tenancy with Jim, and thus passes to Jim upon Sandra's death. With the remaining value of Sandra's belongings, her estate is under the statutory threshold and may be administered as a small estate (SCPA [1301](#)). Jim, as child of Sandra, can act as a voluntary administrator to enforce the promissory note and sell contents of the house, as SCPA [1306](#) states, "the voluntary administrator may maintain an action or proceeding to recover or compel the delivery of the property, or to enforce a contractual or quasi contractual claim owned by decedent, provided the amount claimed, together with all other assets of the estate to be administered under this article, does not exceed the monetary amount defined as a small estate pursuant to subdivision one of section 1301 of this article" and, "A voluntary administrator may sell for its reasonable value in cash any personal property of the decedent coming into the voluntary administrator's possession."

Links to Reference/Study Materials:

- A. **Surrogate's Court Procedure Act:**
<https://codes.findlaw.com/ny/surrogates-court-procedure-act/>
<https://www.nysenate.gov/legislation/laws/SCP>
- B. **Estates, Powers and Trusts Law:**
<https://codes.findlaw.com/ny/estates-powers-and-trusts-law/>
<https://www.nysenate.gov/legislation/laws/EPT>
- C. **Domestic Relations Law:**
<https://codes.findlaw.com/ny/domestic-relations-law/>
<https://www.nysenate.gov/legislation/laws/DOM>
- D. **Social Services Law:**
<https://codes.findlaw.com/ny/social-services-law/>
<https://www.nysenate.gov/legislation/laws/SOS>
- E. **New York State Tax Law:**
<https://codes.findlaw.com/ny/tax-law/tax-sect-971.html>
<https://codes.findlaw.com/ny/tax-law/tax-sect-981.html>
<https://codes.findlaw.com/ny/tax-law/tax-sect-994.html>
- F. **Mental Hygiene Law:**
<https://codes.findlaw.com/ny/mental-hygiene-law/>
<https://www.nysenate.gov/legislation/laws/MHY>
- G. **Rules of the Chief Administrator of the Courts:**
<http://ww2.nycourts.gov/rules/chiefadmin/130.shtml>
<http://ww2.nycourts.gov/rules/trialcourts/207.shtml>
- H. **Rules of the Chief Judge:**
<http://ww2.nycourts.gov/rules/chiefjudge/36.shtml>